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UNITED STATES
NUCLEAR REGULATORY COMMISSION

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March 16, 1990

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USNRC

RELATED CORRESPONDENCE

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

MEMORANDUM FOR: Emile L. Julian, Chief
Docketing and Service Branch
FROM: John C. Hoyle, Assistant Secretary
SUBJECT: MATERIAL SUBMITTED BY STEPHEN COMLEY

Attached is a copy of a set of materials given to me by Mr. Stephen Comley at the Commission's March 1, 1990, Affirmation Meeting on Seabrook. Please place the material in the appropriate file.

Attachments:

1. Speech, 3/1/90
2. Press Release, 3/1/90
3. Press Packets Summaries
4. Additional Press Clippings
5. Xerox of Photo

cc: PDR

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SPEECH STEPHEN COMLEY 3-1-90 NRC HEADQUARTERS

I am currently in a confrontation with top NRC officials because I have refused to cooperate in an internal witch-hunt against NRC Office of Investigations Deputy Director Roger Fortuna. Victor Stello, former NRC head, and long time foe of Fortuna made secret payments to an unreliable informant for information that I have tapes of conversations which would damage Fortuna. I have not admitted whether or not the tapes exist because the NRC subpoena is illegal and violates my Constitutional rights to freedom of association. No where in the Bill of Rights do I read where my right of association is an exception when I associate with NRC officials.

The NRC, particularly Victor Stello, wants to silence me or any of his critics so that whistleblowers from the nuclear industry or the NRC will never talk to me or any whistleblower group like We The People. He is trying to accomplish this by abusing the agency's power as well as the power of the federal courts so that these avenues, that he has proved himself are necessary if we are to hear the truth, are eliminated. I am now facing \$200,000 in court fines and possibly jail because the NRC is more interested in protecting industry profits than making sure nuclear power plants are as safe as they can be.

Our organization, We The People, Inc. forced Victor Stello to finally admit in May, 1988 that there are tens of thousands of counterfeit substandard components in 59 nuclear plants in the United States including Seabrook. These flawed materials, some in systems critical to safe operations, include circuit breakers, piping materials, valves and fasteners.

When the nuclear industry complained that finding and replacing these substandard materials would be too expensive, the agency under Stello's direction lowered plant safety requirements, thus increasing the likelihood of a meltdown or other serious radioactive accident. There is considerable evidence many of those counterfeit parts have been built into Seabrook Station but the NRC has called off any further investigations in an attempt to save the utility money at the expense of the public's safety.

Now Victor Stello has been nominated by President Bush to a high post in the Department of Energy to oversee cleanup of dangerously polluted nuclear weapons facilities. However, Stello's vendetta against Fortuna and me which is now under investigation by the NRC's Inspector General, is holding up his confirmation by the Senate Arms Services Committee. In my opinion, the man is dangerous and needs help. Under no circumstances should he be put in a position of any responsibility.

President Bush must recognize that under Mr. Stello's past direction, the NRC is now totally out of control. The NRC has lost all perspective of their mandate to protect the American people. The NRC's decision to license the Seabrook plant endangers the communities for many miles in all directions on the seacoast including Massachusetts, New Hampshire and the President's summer White House in Kennebunkport, Maine, only 18 miles from Seabrook.

The NRC continue to employ their dictatorship rule so that every nuclear power plant in the U.S. will be licensed including Seabrook Station. The NRC is intent on ignoring the volumes of evidence which prove that Seabrook Station is too dangerous to operate and that the people who live around the plant could not be evacuated if there was an accident. The NRC has made a mockery out of our democratic system. They have ignored the Governors of Massachusetts, New York, Ohio and Nevada. They continue to ignore Congress and more importantly have ignored the American people, their boss.

I would like to say that Senator Kostmayer in my opinion, has done more at this point to uphold what this country stands for and he has done this with great courage and the risk of great criticism. Some reporters have told me they can't figure what's in this for him because he is going to be up against great critics within the political bureaucracy. My answer to them was that Mr. Kostmayer knows the truth and he also has a family. He knows what will happen. I have been told by nuclear engineers inside this building that we will have a nuclear disaster in this country worse than Chernobyl that can happen any day because of the way our plants have been constructed and the way they are being run.

This wall of corruption that the NRC has built to protect the nuclear industry profits at the expense of America and its future must be exposed and torn down so that we the people are freed from this nuclear slavery.

It's time that Mr. Bush started to listen to the people of this country instead of his pro-nuclear Chief of Staff, John Sununu. I also believe that it would be very politically wise for Mr. Bush to withdraw his nomination of Victor Stello to the Department of Energy now. Mr. Bush and others must join Senators Kostmayer, Kennedy, Kerry, Humphrey and Congressmen Mavroules, Markey and Studds who have answered our call for a full blown investigation of the corruption within the NRC.

Gorbachev - the reason why he has been so insistent on disarming the nuclear arsenal was because of Chernobyl. He saw and felt the effects on his people and what it did. Chernobyl proved that in a nuclear disaster, radiation does not discriminate. It affected our cows milk in Vermont and the Russian people have lost their land for a thousand years or more.

Recently we have seen how the people of Czechoslovakia, Russia, Romania and China proved to their Communist and Dictatorship governments the strength of people power. They had nothing to lose and everything to gain. We have everything to lose by not exercising the freedoms that we were given by our forefathers.

The Vietnam War was stopped by the people, no-one else. The people can stop this holocaust waiting to happen. America belongs to the people. Our forefathers founded this country so the people would have a say in their government. This country does not belong to the nuclear industry or the NRC. It belongs to the American people and its children. Let's take it back.

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We The People, Inc.
of the United States
Stop Chernobyl Here

IMMEDIATE PRESS RELEASE

EVENT: NRC HEARING ON FULL POWER LICENSE FOR SEABROOK NUCLEAR POWER PLANT
DATE AND TIME: MARCH 1, 1990 HEARING BEGINS 11:30 A.M.
LOCATION: NRC HEADQUARTERS, 11555 ROCKVILLE PIKE, ROCKVILLE, MARYLAND (NEXT DOOR TO THE WHITE FLINT METRO STATION)
DEMONSTRATIONS: VIGIL 8 P.M. 2-28, PROTEST 9:30 A.M. 3-1
PRESS CONTACT: NUCLEAR INFORMATION RESOURCE SERVICE (NIRS) WASHINGTON DC (202)328-0002
STEPHEN B. COMLEY, EXECUTIVE DIRECTOR
WE THE PEOPLE, INC.
(508)948-7959 OR (202)628-6611

The Nuclear Regulatory Commission (NRC) has said it will hold a hearing regarding a full power operating license for the Seabrook nuclear power plant on March 1. The hearing will commence at 11:30 a. m. We The People, an antinuclear educational group and its Director, Stephen Comley, is traveling to Washington to join other antinuclear groups who will protest the license. A candlelight vigil at 8 p. m. on February 28, 1990 and a demonstration on March 1, 1990 at 9:30 a.m. is planned. Both events will be held in front of NRC headquarters in Rockville, Maryland. Various groups throughout the country will take part in these demonstrations. Comley, one of the invited guest speakers, will reassert that there is information the NRC has dismissed which shows there are serious safety problems with that plant and half the other nuclear plants around the country.

Comley is currently in a confrontation with top NRC officials because he has refused to cooperate in an internal witch-hunt against NRC Office of Investigations Deputy Roger Fortuna. Victor Stello, former NRC head, and long time foe of Fortuna made secret payments to an unreliable informant for information that Comley has tapes of conversations which would damage Fortuna. Comley has not admitted whether or not the tapes exist, saying the NRC subpoena of the tapes is illegal and violates his Constitutional right to freedom of association.

"The NRC, particularly Victor Stello, wants to silence critics such as myself, and are abusing the agency's power and the power of the federal courts to do so," Comley said. "I am now facing \$200,000 in court fines and possibly jail because the NRC is more interested in persecuting critics like myself than in making sure nuclear power plants are as safe as they can be," he stated.

We The People, Inc. headed by Comley, forced Victor Stello to finally admit in May, 1988 that there are tens of thousands of counterfeit substandard components in 59 U. S. nuclear plants in the United States

including Seabrook. These flawed materials, some in systems critical to safe operations, include circuit breakers, piping materials, valves and fasteners.

"When the nuclear industry complained that finding and replacing these substandard materials would be too expensive, the agency under Stello's direction lowered plant safety requirements, thus increasing the likelihood of a meltdown or other serious radioactive accident. Comley said, "There is considerable evidence many of those counterfeit parts have been built into Seabrook Station but the NRC has called off any further investigations, an attempt to save the utility money at the expense of the public's safety."

Now Victor Stello has been nominated by President Bush to a high post in the Department of Energy to oversee cleanup of dangerously polluted nuclear weapons facilities. However, Stello's vendetta against Fortuna and Comley, now under investigation by the NRC's Inspector General, is holding up his confirmation by the Senate Arms Services Committee. "In my opinion, the man is dangerous and needs help. Under no circumstances should he be put in a position of any responsibility," Comley said.

"President Bush must recognize that under Mr. Stello's past direction, the NRC is now totally out of control. The NRC has lost all perspective of their mandate to protect the American people. The NRC's decision to license the Seabrook plant endangers the communities for many miles in all directions on the seacoast including Massachusetts, New Hampshire and the President's summer White House in Kennebunkport, Maine," Comley stated. The Russian people have already felt the affects of Chernobyl which proves that, in a nuclear disaster, radiation does not discriminate. It affected our cows milk in Vermont and the Russian people lost land for a thousand years.

"The NRC continue to employ their dictatorship rule so that every nuclear power plant in the U.S. will be licensed including Seabrook Station. The NRC is intent on ignoring the volumes of evidence which prove that Seabrook Station is too dangerous to operate and the people who live around the plant could not be evacuated if there was an accident. The NRC has made a mockery out of our democratic system. They have ignored the Governors of Massachusetts, New York, Ohio and Nevada. They continue to ignore Congress and more importantly have ignored the American people, their boss. Mr. Bush and others must join Senators Kostmayer, Kennedy, Kerry and Congressman Mavroules who have asked for a full blown investigation of the corruption within the NRC. This wall of corruption that the NRC has built to protect the nuclear industry profits at the expense of America and its future must be exposed and torn down so that we the people are freed from this nuclear slavery," Comley concluded.

We The People will be distributing signs saying, "DANGER SEABROOK NUCLEAR ZONE NO EVACUATION POSSIBLE" as well as "CONGRESS PROTECT U.S. DEMOCRACY. INVESTIGATE THE NRC".

Portsmouth Herald

Nuclear foe fined \$155,000 for defying tape subpoena

BOSTON (AP) — Stephen Comley, an anti-nuclear activist, has been fined \$155,000 in fines for refusing to surrender tapes he allegedly made of a conversation with a federal regulatory official.

U.S. District Judge Robert Keeton said Comley was not above the law, and ordered the fines, set because he has refused to comply with a Nuclear Regulatory Commission subpoena for the tapes.

The NRC had demanded he turn over 40 to 50 tapes of phone conversations between Comley and Roger Fortuna, an NRC investigator, which Comley is said to have recorded secretly.

The tapes are needed to determine if a senior employee improperly disclosed confidential information to Comley, the NRC said.

Comley is a long-time foe of the Seabrook, N.H., nuclear plant and founder of the anti-nuclear group, "We the People."

He is being fined \$1,000 a day for failure to comply with a six-month-old contempt of court order. A federal appeals court has rejected Comley's argument that the subpoena was improper.

Tuesday, Comley said he has no plans to return the tapes, the only instance of which he never had confirmed. The subpoena is a part of a "witch hunt" designed to harass him and "get" Fortuna, he said.

Through Tuesday, the fines amounted to \$172,500. Comley previously had been ordered to pay \$17,500 in fines. The Daily News of Newburyport reported.

Stello and the Fortuna Affair: Backbiting at the NRC

Tale of intrigue and alleged revenge could doom nomination of Bush choice to fix crippled nuclear weapons complex

Sometime in 1988, the Nuclear Regulatory Commission's chief of internal affairs listed in her notebook three objectives for an investigation she had begun. Sharon Connelly circled the item she put at the top: "Dispose of RF."

The target was Roger Fortuna, the second-ranking NRC official in charge of investigating wrongdoing at nuclear power plants. Suspected of "building an organization to topple" the NRC, he was almost fired. But after the inquiry became public, Connelly and the NRC's executive director, Victor Stello Jr., were accused of purring a vendetta against Fortuna for being too aggressive against industry officials.

Eighteen months after the probe began — and a year after Fortuna was dismissed to "businesslike Stello" — an internal review concluded that he violated no laws or rules. On Feb. 20, he was given his job back.

In the meantime, Fortuna's odyssey has taken on enormous ramifications.

Democrats on several congressional committees — the House's Interior and Energy panels and Senate Governmental Affairs — have seized on the case as proof of their oft-stated charge that the NRC is in bed with those it oversees.

The involvement of Stello, who helped supervise the Fortuna probe, has made the case that much juicier for the NRC's naysayers in Congress and the states that reach higher for the Bush administration. Stello is President Bush's nominee to be assistant secretary of energy. His job would be to reconstitute the Department of Energy's (DOE) crippled multibillion-dollar nuclear-bomb production complex, and DOE officials say he is the only qualified person who would take the job.

Although Stello's critics in Congress have accused him of much greater pro-industry bias during his 23



Roger Fortuna spent \$20,000 defending himself during a lengthy investigation.

years as a nuclear regulator, it now appears that if his nomination fails, Fortuna will have been his undoing.

Poised to deliver the fatal blow is a newly enacted creation of Stello's critics — the NRC's inspector general, a quasi-independent check Congress imposed on the agency last year.

Two months on the job, Inspector General David C. Williams is reviewing the Fortuna case — the latest of many inquiries into the matter that have involved all three branches of government, thousands of pages of documents and countless hours of testimony.

Last month, the Armed Services Committee was on the verge of recommending Stello's confirmation but balked upon learning that he is a focus of Williams' investigation. Stello is accused of covering up significant safety violations in his zeal to get Fortuna fired and of lying to Congress to justify his actions. In this age of increasingly microscopic Senate confirmations, that may be enough to add

Stello to the list that includes Robert H. Bork, John Tower and William LeCoe. (*Background*, pp. 322, 231)

This is the story of what has become widely known in NRC circles as the Fortuna Affair, a real-life soap opera one member of Congress calls "Nuclear Hospital." It is a tale of bureaucratic and political backbiting in which virtually everyone has at least the appearance of an ax to grind. It involves envelopes filled with government money, allegations about pot-smoking nuclear-plant operators, a top-secret contract, fake vacations, an unnamed name, child molestation and a judge's decision to fine a man \$200,000 for failing to produce tapes nobody is sure exist.

Everybody involved claims doing anything wrong.

Enter Ellison

The story begins with a man named Stephen Ellison, a former nuclear-plant technician and self-proclaimed whistleblower who appears to have taped virtually every significant conversation he had for several years. Desperate for money, he tried to sell his tapes to the highest bidder — a contact the NRC won by default in 1988, when it paid him \$2,000 in fees and expenses for tapes of Fortuna.

Ellison was working for the Nine Mile Point Unit 1 nuclear power plant, operated by Niagara Mohawk Power Corp. in upstate New York, when he first became known to the NRC in 1986. His allegations that Niagara Mohawk violated a number of federal safety regulations prompted the agency to fine the company \$20,000. In April 1987, the firm gave Ellison \$25,000 to settle a harassment complaint. In return, he quit.

Before he left, Ellison began taping conversations with various NRC and Niagara Mohawk officials. At the time, he was working with Stephen R. Conroy, an anti-nuclear activist who is suspected of making copies of tapes



The Cast in Brief

Roger Fortuna: Deputy director of NRC's Office of Investigations (OI), which investigates industry wrongdoing. Suspended for a month in 1986, reassigned to the Freedom of Information office for 11 months and returned to OI Feb. 20.

Victor Stello Jr.: Career federal nuclear power regulator, Executive Director for Operations of the NRC until mid-1989. Nominated by President Bush to be assistant secretary of energy for defense programs last July and assigned to a lower-level Energy Department job pending confirmation by the Senate.

Sharon Connelly: Former director of the NRC's Office of Inspector and Auditor (OIA). Conducted the Fortuna investigation. Reassigned in March 1989 to a job created for her in the comptroller's office.

Douglas Ellison: Former technician at the Niagara Mohawk Power Corp.'s Nine Mile Point Unit 1 nuclear power plant in upstate New York. Paid informant and Fortuna's chief accuser.

Stephen B. Comley: Founder of "We the People Inc. of the United States," an anti-nuclear information-gathering organization formed to fight the Seabrook, N.H., reactor, which is 12 miles from the nursing home he owns in Rowley, Mass. Has hired airplanes to fly anti-nuclear banners over important

political events and institutions. A tape of him talking to Fortuna was key to the investigation.

Ben Hayes: Director of the Office of Investigations. Fought to get Fortuna his job back.

William C. Parler: NRC's general counsel.

James Blake: Official in Stello's office who aided Connelly during the Fortuna investigation.

Alan S. Rosenthal: Former administrative law judge hired by the NRC, under pressure from Congress, to take over the Fortuna investigation.

J. Bryan Hyland: Career federal investigator hired by the NRC to review the Connelly-Fortuna tape.

David C. Williams: NRC's Inspector General. Replaced Connelly and the OIA. His investigation of the Fortuna affair has sidetracked Stello's confirmation.

Mark Reanan: One of Connelly's top deputies.

James M. Taylor: Former deputy to Stello who later replaced him as the NRC's top staffer. Rejected proposal to fire Fortuna, deciding to reprimand him instead.

Christine N. Kahl: Administrative judge who presided over Fortuna's case on appeal. Overturns Taylor's reprimand.



Stello



Hayes



Comley



Williams

himself as part of a campaign to prove the industry and the NRC corrupt.

Ellison's taping habit is one of several aspects of his life that have led many to question his credibility.

In October 1986, he was charged with molesting his family's 13-year-old baby sitter, and two other minors told authorities of similar instances of sexual misconduct, according to a Governmental Affairs Committee report on the Fortuna affair. Ellison said he was framed, but he pleaded guilty to a lesser charge in a plea bargain.

Niagara Mohawk's investigation of his harassment complaint concluded that he "was subjected to occasional teasing and ridicule by his peers as a result of his personal habits and unusual conduct," not an intimidation campaign. A federal prosecutor would later tell the NRC that Ellison had "a work history involving extensive absence for mental health reasons."

The prosecutor called him "a very slender reed on which to rest a criminal case" against Fortuna.

Act Two

By 1988, Ellison had moved to Florida, where he was unemployed for

a time and, in his words, "desperate" for money, the Governmental Affairs report said.

He began trying to sell what he described as "suitcases" full of tapes that proved wrongdoing on the part of the NRC and Niagara Mohawk. He peddled them without success to Comley and various news organizations. In what one congressional report called "an apparent attempt at extortion," he also tried to persuade Niagara Mohawk to buy them.

In August 1986, Ellison complained to Sharon Connelly's Office of Inspector and Auditor (OIA) that his 1986 allegations had been mishandled by the Office of Investigations (OI), of which Fortuna was deputy director. (The OIA, since replaced by the inspector general, used to investigate wrongdoing within the NRC. OI still investigates wrongdoing within the industry.)

Ellison also alleged wrongdoing by a commission member and several NRC employees, including Fortuna. Specifically, he said that Fortuna had discussed sensitive NRC information with a third party.

But Ellison refused to cooperate

fully without being paid and threatened to "go public." Connelly decided to pursue the case, and Stello obligingly setting up a secret \$10,000 fund pay Ellison.

That decision would later lead me in Congress to charge that the investigation was vindictive. Reps. Gene Miller, D-Calif., and Sam Goldstein, D-Conn., called it "part of a concerted effort by the NRC to undermine OI as its investigations of possible wrongdoing by NRC licensees."

Connelly and Stello insist that personal and professional animosity played no role in their decision.

Nevertheless, both had previous run-ins with Fortuna and his boss. (Director Ben Hayes, some were documented by the NRC's evening committees in Congress and all apparently well-known in the agency's suburban Maryland headquarters.)

Stello's conflict with the OI officials stemmed from a longstanding philosophical difference over how aggressively to investigate industry wrongdoing, while the conflict with Connelly appears to have been more personal. In some ways, the conflict mirrored disagreements among con-

gressional factions, which over the years have pulled the agency in two different directions. (Box, p. 590)

Stello Appears

Finding a way to pay Ellison for his information was no easy matter. Connelly did not have authority to do it herself. She talked to NRC General Counsel William C. Parler on Aug. 25, 1988, to see whether a small fund could be set up to pay informants. She offered no details of the pending investigation.

In a memo to Connelly, Parler wrote: "I am not aware of any budget justification data in our existing authority which would authorize the establishment of such a fund." But he said if she really needed the money to carry out the NRC's "public health and safety mission" she should let him know the details and seek his advice.

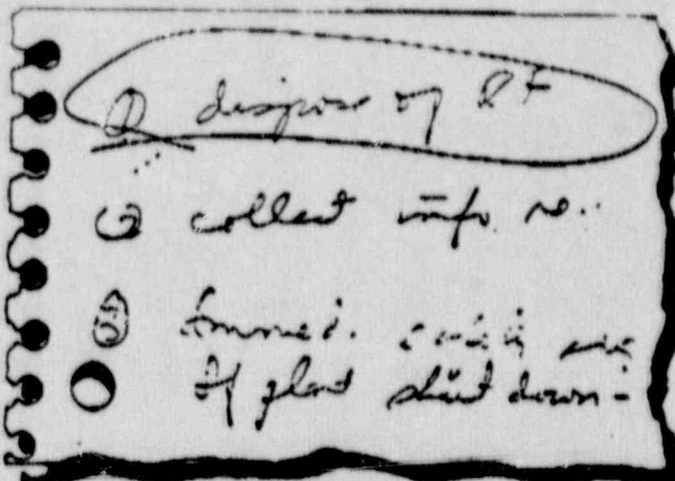
Connelly went to Stello, told him of Ellison's charges and asked for help — even though she was supposed to be independent of his influence and officially answered only to the commission for that reason. Stello would later tell Congress that he learned of new allegations directly related to safety at this meeting with Connelly, but several in Congress questioned the testimony.

"Stello's recollection ... does not appear to be supported by the contemporaneous record," the Governmental Affairs Committee later concluded. His "safety rationale" may have "merely provided a convenient cover to do something the NRC general counsel had otherwise indicated could not be done," said the panel, which concluded that Stello was deeply involved from this point on.

After meeting with Connelly, Stello went to General Counsel Parler and said the information Connelly was after indeed had safety implications. Parler advised Stello that he could enter into a contract with the informant — as long as there was a sound, fully documented health and safety rationale.

An official from Stello's office, James Blaha, was assigned to the case and he, Connelly and one of her top assistants, Mark Reaser, flew to Florida to see whether Ellison had any safety allegations that the NRC had not previously addressed.

Ellison provided them with two:



Sharon Connelly listed three objectives for the investigation in her personal notebook. Circled at the top was "Dispose of RF."

There had been a fire at the Nine Mile Point reactor in 1986 that the company had not reported to the NRC, and employees at the reactor were using drugs, mostly marijuana, when Ellison worked there.

Since the Fortuna affair became public, Stello has repeatedly emphasized these "safety" issues to justify his decision to pay Ellison. But back in 1988, when Connelly and the others briefed Stello, he and Connelly seemed most interested in something else — a Jan. 14, 1987, tape of Fortuna and Comley talking on the phone. Blaha told the Governmental Affairs Committee. Based on that tape, which was to become the centerpiece of the investigation, Stello decided to enter into a top-secret "consulting" contract with Ellison, Blaha said.

The Safety Subject

Stello has indicated to Congress that the safety allegations, rather than the tape, were foremost in his mind. He said the plant to which the charges related was about to be restarted after being down for about a year. "For that reason, I felt it important to pursue these allegations promptly," he told the House Interior Subcommittee on Investigations.

To subcommittee Chairman Peter H. Kostmayer, D-Pa., Stello's explanation did not ring true. In a letter to the Senate Armed Services Committee, Kostmayer said that there is "significant reason to doubt" that Stello knew whether Ellison had any new allegations. No NRC experts with firsthand knowledge of Ellison's 1986 charges reviewed his 1988 charges. Moreover, Kostmayer said, internal documents show that the plant's re-

start was not imminent. In fact, it still has not been restarted.

Even more troubling to Kostmayer was what happened to the drug charge.

Stello sat on that allegation, a normally high-priority matter that would have been referred to the Office of Investigations — where Fortuna worked. Stello did not initiate an investigation of the drug charges until March 29, 1989, weeks after the whole matter had become public and two months after Fortuna learned that he was the

target of an internal inquiry.

"I didn't want to compromise the investigation," Stello told Kostmayer's subcommittee, conceding that his decision to delay was "stupid."

Stello said he decided the drug charge could wait because the start-up date for the reactor had "slipped" shortly after the Ellison contract was signed. Internal NRC documents, however, show that the date had not slipped because it was always considered to be far off in the future, Kostmayer countered. Besides, he added, the company's other reactor was running, and some employees worked at both plants.

"Mr. Stello ignored public health and safety while pursuing a vendetta," Kostmayer told the Senate Armed Services Committee. "I believe that he has willfully misled my subcommittee as well as other committees."

Ellison Paid

The first payment to Ellison was \$500 wired to him on Aug. 31. He immediately drove from Florida to suburban Virginia and checked into the Embassy Suites hotel.

Secrecy became paramount. When the NRC's division director of contracts signed the necessary document, he was not allowed to see Ellison's name on it. At the hotel, Ellison assumed the name "Thompson." Payments to Ellison were to be made in cash — delivered in envelopes by Blaha in four installments — to avoid having Ellison's name on government checks.

Investigators in OIA were told that there was nothing to Ellison's allegations and that the case file would be closed. Connelly and Reaser took two

weeks of session so they could work in a suite next to Ellison's without their staffers finding out.

For two weeks, Connelly, Blaha and Resner listened to Ellison's tapes, had transcripts made and talked to Ellison.

Ellison was interviewed in the presence of a court reporter only once, on Sept. 12; the interview focused almost exclusively on Ellison's allegations about Fortuna. He told them that Comley, the activist, and Fortuna "are gathering as much as they can to put together the biggest package to prove that the [NRC] isn't regulating but promoting the industry." Ellison also said Comley had scores of tapes of his conversations with Fortuna.

Twice in September, Connelly invited criminal investigators to get involved in the Fortuna probe.

An FBI agent came to the hotel to listen to some of the tapes because Connelly and Resner thought bribery might be involved. The agent found nothing criminal about Fortuna's conversation with Comley but did express interest in assessing whether somebody had violated wiretap statutes. (It has never been clear who taped the crucial Jan. 14, 1987, conversation, Comley or Ellison; each blames the other. Everyone agrees that the tape given to the NRC has been altered in some form.)

Connelly also contacted the U.S. Attorney's office in Baltimore. Prosecutor Joyce McKee told her in a letter: "The tape recordings do not disclose that Mr. Fortuna participated in the commission of any criminal offense." It was McKee who called Ellison "a very slender reed on which to rest a criminal case."

Many others would later come to the same conclusion about the Fortuna-Comley tape. "We found very little reason for ... this investigation," said the Governmental Affairs Committee.

J. Brian Hyland, a career investigator who reviewed the case for the NRC, found that charges against Fortuna "were blown out of proportion because of personal and organizational animosity" between OI and OIA.

NRC General Counsel Parler, who is also the agency's chief ethics officer, concluded that the tape shows no violations of key employee-conduct rules.

Fortuna's Judgment

Only one official, another investigator hired by the NRC, found the Comley-Fortuna tape troubling. Alan S. Rosenthal, who took over all OIA



"Mr. Stello ignored public health and safety while pursuing a vendetta."

—Rep. Peter H. Kostmayer

investigations of OI officials after the Fortuna affair became public, found Fortuna's actions during the phone call to be "entirely inconsistent with the dictates of his official position." Of most concern to Rosenthal was the apparent "conspiratorial flavor" of the conversation. He gave examples:

Fortuna promised Comley that he would not tell anyone of Comley's plans to have an airplane fly an anti-nuclear banner over the Justice Department the following day; Fortuna advised Comley how to act when he went to the Justice Department the next day to press for an investigation of a case Comley wanted reopened and told him which NRC staffers would attend; and Fortuna did nothing to dissuade Comley from thinking that Fortuna had damning inside information about the NRC, but was waiting to release it.

"Time and time again in the Jan. 14 conversations, Fortuna crossed the line separating proper and improper conduct," Rosenthal concluded.

But he also concluded that there was "insufficient evidence" to show that Fortuna gave Comley any confidential information or did anything else to violate NRC rules. Any tapes Comley may have would be helpful in

that regard, Rosenthal said.

Although Ellison first told OIA in the summer of 1985 that Comley had more tapes, the NRC made no attempt to get them until the affair became public and Rosenthal was assigned to the case. He issued Comley a subpoena, but Comley has refused to comply, despite some \$200,000 in fines and jail threats from a federal judge in Boston. Comley said in an interview: "I have not confessed nor denied that I have any tapes."

Fortuna's position is that he was just cultivating Comley as a potential source. "Sometimes you give a little to get a little," he testified. He denied ever giving confidential information to Comley, and Comley backs him up.

But to Connelly and the others, Ellison's tapes indicated something much more nefarious. "Ellison's belief that Comley, with the assistance of, or under the direction of Fortuna, is building an organization to topple the Nuclear Regulatory Commission was supported by the tapes," says a document from their files.

Safety Second

They did not appear to be as worried about Ellison's other allegations — those involving other officials and "safety" problems at Ningen Michenko — and congressional investigators have concluded that they were secondary to their main focus.

Said a staff report by the Energy and Commerce Subcommittee on Energy and Power: "Connelly listed three objectives for her investigation in her personal notebook. Two related to safety matters, but at the top of the list, circled, was 'Dispose of R.F.' Connelly appears to have orchestrated the investigation to fire Fortuna."

In an interview, Connelly confirmed the quote, but denied the staffers' conclusion and added: "We're not talking about Roger Fortuna the person, we're talking about Roger Fortuna the issue, that part of the case."

Blaha determined that almost all of Ellison's safety allegations had been adequately addressed two years earlier. A few were investigated much later, including the drug charge that Stello had put on hold.

Focus on Fortuna

Work on the case slowed after Ellison checked out of the Embassy Suites hotel on Sept. 16, 1985. But it picked up again in November 1985, when Connelly's staff first talked to Fortuna.

In an informal interview, staff members asked Fortuna only about how his office handled Ellison's 1986 allegations and told him nothing about the tapes. When Fortuna asked whether he was the target of an inquiry, they were "deliberately vague and inaccurate," violating an OIA office policy to inform targets of their status, the Governmental Affairs Committee said.

Almost three months later, Fortuna found out he was the only target. He was ordered to answer questions from OIA officials — under oath and in the presence of a court reporter.

On advice from his lawyer, Fortuna refused. He demanded to know what authority the agency had to force him to answer questions under oath and offered to submit to another informal note-taking interview. He explained later that he feared being tricked into a perjury charge.

A list of OIA's planned questions — later obtained by congressional investigators — shows that the officials wanted to ask him detailed questions about his conversations with Comley and Ellison. They planned to make it appear as if they were relying only on statements from Ellison. They wanted to wait until the end of the interview to play him a tape.

"Is that your voice, Roger?" they had planned to ask.

On Feb. 22, 1989, Fortuna was placed on administrative leave and informed by one of Stello's deputies that he was proposing to fire him for refusing to be interviewed. After that, the whole thing blew up.

Within days, Democrats from three congressional committees, well aware of the historical conflict between OI and OIA, and OI and Stello, were demanding all documents relating to the Fortuna case. NRC employees later admitted destroying some of them.

The Story Breaks

Things really heated up when *Inside NRC*, a scrappy semimonthly newsletter, broke the nut of the story — that Ellison had been paid more than \$6,000 for his information. In a letter, Reps. Gejdenson and Miller called the payment "disgraceful" and said it "makes a mockery of NRC's investigative process and discredits the commission." (The General Accounting Office (GAO) later concluded that payment to Ellison was a legal expenditure.)

Under heavy fire, the NRC turned

the whole case over to Rosenthal on Feb. 28. A week later, Connelly asked to be reassigned, and a job was created for her in the comptroller's office. She said she is happy there.

After failing to get job protection from the federal courts, Fortuna went through an elaborate administrative appeals process that he said cost him \$60,000 in legal fees.

Normally, that process would have put Fortuna's fate in his boss's hands, but Stello did not allow Hayes to participate.

On appeal, James M. Taylor, another Stello deputy, decided that Fortuna would not be fired after all because he later agreed to be interviewed by Rosenthal. But Fortuna was issued a formal reprimand for refusing to be interviewed the first time and was detailed to the Freedom of Information office — "bureaucratic Siberia," he called it — after a monthlong leave.

Fortuna appealed the reprimand and persuaded Stello to step aside and hand the case over to Christine N. Kohl, an administrative judge. She

"Is that your voice, Roger?" NRC officials had planned to ask.

dismissed the misconduct charge against Fortuna and expunged the reprimand, saying NRC officials violated their own policies when they tried to force Fortuna to testify under oath. She also questioned their motives.

Under pressure from Hayes, Taylor — who replaced Stello as executive director — agreed to give Fortuna his former job back, effective Feb. 20, 1990, provided he documented all future discussions with informants.

Stello's Problems

In Congress, Stello's nomination to the DOE assistant secretary post, rumored in the spring and announced in July, has increased the resolve of the NRC's critics.

Critical reports were issued by the Governmental Affairs Committee, chaired by John Glenn, D-Ohio, and the staff of the House Energy and Power Subcommittee, chaired by Philip R. Sharp, D-Ind. The Kastmayer subcommittee held a heated hearing at which all the key partici-

pants testified, and the Interior Committee is about to release yet another critical report. Democrats from all three panels attempted to persuade the Senate Armed Services Committee to reject Stello's nomination.

Throughout 1989 and into early 1990, they did not appear to be having much impact. A majority of the committee appeared ready to approve Stello, and his opponents on that panel, including Glenn, were drafting dissenting opinions and hoping they could muster a rare, successful floor fight against a sub-Cabinet appointment.

A law passed by Congress in 1988 (PL 100-504) at the behest of the NRC's critics and sponsored by Glenn changed everything. It abolished the OIA as of last year and replaced it with the Office of the Inspector General, whose chief was to be appointed by the president and confirmed by the Senate — not the NRC.

For the critics, the law paid off. The man appointed to be acting inspector general was Martin G. Malsch, one of General Counsel Parler's deputies. He immediately began his own investigation and has issued an interim report that sources described as quite critical of how Fortuna was treated.

Nominated to the inspector general post permanently was Williams, who has a long career in federal investigations and possibly telling anecdotes to main characters in this saga.

He used to work for Hyland — the former federal investigator who said the Fortuna charges were "blown out of proportion" — when Hyland was the Department of Labor's inspector general. While on the President's Commission on Organized Crime, he worked with key congressional staffers who investigated the Fortuna affair. And as head of the GAO's special investigation division, he reviewed the OIA's handling of several cases under Connelly, including one that involved charges of wrongdoing against Stello and issued his own critical report.

Williams, who began work Dec. 3 is investigating every aspect of the Fortuna affair, including whether Fortuna did anything wrong and whether Stello lied to Congress. That was so what the Armed Services Committee expected to hear when it was preparing to vote on Stello last month, a action on the nomination was postponed indefinitely.

"We did not know how serious the allegations were regarding Stello," said Chairman Sam Nunn, D-Ga.

REAL
PICTURE

NRC Pulled Every Which Way

In 1982, Congress pressured the Nuclear Regulatory Commission to create an independent cadre of investigators to pursue criminal wrongdoers within the industry. In 1987, the NRC was told to rein in the gumshoes. In 1988, Congress signaled that it wanted them let loose again.

For much of its 16-year existence, the NRC has been pulled in opposite directions by opposing forces in Congress — those strongly supporting the nuclear industry and those more skeptical or opposed.

In some ways, the dispute in Congress is reflected in bitter conflicts among top NRC staffers. To many, the Roger Fortuna affair was such a conflict. (Story, p. 586)

The NRC created Fortuna's Office of Investigations (OI) in 1982, when the agency was under fire for failing to aggressively investigate several cases. It was set up as an independent arm that reported directly to the commission, bypassing such top staffers as Victor Stello Jr., who was considered an ally of the pro-industry forces and who later became the NRC's executive director for operations.

Under Fortuna and Director Ben Hayes, the OI was very aggressive; in the eyes of many they were unmanageable free agents.

Tom Beville, D-Ala., chairman of the House Appropriations Subcommittee on Energy and Water Development, pushed the NRC to merge the OI with inspection divisions under Stello's control. Beville considered OI "duplicative and redundant." The NRC contemplated such a move in the mid-1980s but dumped the idea after complaints from others in Congress, including House Interior Chairman Morris K. Udall, D-Ariz.

Beville prevailed after ordering the NRC to put OI under Stello's control late in 1987. In 1988, the other faction weighed in again. At the behest of the House Interior and Energy panels and the Senate Environment and Public Works Committee, both chambers passed bills (HR 4140, S 2443) that would have required the NRC to make the OI independent again. Neither was enacted; OI remains under the control of the NRC's executive director.

At the NRC, there was a similar conflict over how aggressively industry wrongdoing should be investigated.

Underlying the conflict was a basic philosophical dispute: Stello argues that criminal inquiries must sometimes come second to assuring public health and safety; Fortuna and Hayes say criminal wrongdoing by industry is itself a top-priority health-and-safety issue.

Hayes has complained to Congress several times that Stello refused to support his investigations. He once accused Stello of a "thinly veiled attempt . . . to control OI."

NRC's oversight committees have issued reports on several instances in which they concluded that Stello had impeded OI inquiries or otherwise battled with Hayes' office. That's why Democrats reacted so quickly a year ago upon learning that Fortuna, OI's deputy director, was about to be fired. He was being investigated at the time by Sharon Connelly of the Office of Inspector and Audit



Beville

(OIA), who was suspected of doing Stello's bidding.

Differences between Stello and Fortuna date back a decade or so, when Fortuna pushed for an investigation of Stello's handling of the inquiry into the 1979 Three Mile Island accident. The FBI investigated an alleged cover-up, but Stello was never charged and denies wrongdoing.

Stello and Fortuna "have had words and disagreements for years," Hayes has testified. Fortuna said, "I find myself a victim of vengeance, lying and deceit, all in retaliation for having tried to do a job that certain people never wanted done at all."

Stello flatly denied that, testifying: "My overriding concern was to assure public health and safety." He added, "I do not have any ill feelings toward Mr. Fortuna."

There were conflicts dividing Fortuna and Hayes and Connelly. NRC officials testified that, in the words of one investigator, Connelly's "disdain" for OI was "legendary." General Counsel William Parler said, "There was a mutual lack of respect." Pitting Stello and Connelly against Fortuna, he said, was "the worst possible combination" and "the low common denominator of common sense."

Critics said Connelly often pursued trivial allegations of wrongdoing. She once had a high-ranking NRC official followed to see if he was leaving work early. Her office also investigated a prank in which two water-filled condoms were hung outside the NRC's headquarters.

Said Hayes, "I've been investigated a lot by Ms. Connelly." According to Hayes and an official familiar with the case, only one charge was ever substantiated — that he misused a government car by having it diverted to pick him up at home and bring him to a meeting. Connelly was in the diverted car. Hayes was censured and forced to pay about \$2.

"It was power run amok," said former OIA investigator Maureen Gowler. She swore that many OIA probes were vindictive: "Roger Fortuna's story is not unusual."

In fact, Inspector General David C. Williams, who is reviewing the Fortuna affair, has just begun looking into another allegation of retribution against OIA.

With Stello's knowledge, Connelly investigated career staffer James Kelly after he told Congress in 1987 that the NRC was not aggressively pursuing drug allegations at nuclear plants. Accused of improperly soliciting a job from a utility, Kelly was suspended, but he fought back, and the NRC expunged his record. Williams wants "to find out if Kelly was framed," a source said.

Connelly wouldn't discuss her work in detail but denied having vindictive motivations: "I was doing my job."

Others said she had reasons to dislike the OI. Hayes was quite critical of Connelly's work, and openly endorsed Congress' decision to replace OIA with an inspector general. As for Fortuna, he and his wife, Shirley, once testified in a sex discrimination case against Connelly's top deputy. That case became a big embarrassment for Connelly. She was accused of trying to intimidate the complainant and suspended for a time with pay. The Justice Department investigated and harshly criticized her, and key congressmen demanded that she be fired.

—PHIL KIMMEL

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NEW YORK, FRIDAY, OCTOBER 13, 1989

50 cents beyond 75 miles from N

A-PLANT NOMINEE ADMITS MISTAKES

Ex-Official on Nuclear Panel Says He Delayed Inquiry Into Safety Allegations

By MATTHEW L. WALD

Special to The New York Times

WASHINGTON, Oct. 12 — The former chief of staff of the Nuclear Regulatory Commission acknowledged today that he had kept secret for seven months allegations of drug use and safety problems at a nuclear plant in upstate New York, even though he believed they were probably true.

The former official, Victor Stello Jr., is President Bush's nominee to take charge of the Energy Department's troubled nuclear weapons complex. He told a Congressional subcommittee today that a technician at the plant who made the allegations also provided information that could implicate another official at the Nuclear Regulatory Commission, Roger Fortuna.

Mr. Stello said he deferred the inquiry into the safety questions because that would have alerted Mr. Fortuna and he wanted the investigation of Mr. Fortuna to proceed in secret.

But the investigation was not secret, because investigators tipped their hands when they sought to question Mr. Fortuna on the allegations only weeks after the technician made them, according to testimony today by other commission officials.

Questions on Stello's Judgment

Mr. Stello agreed with a comment by the chairman of a House interior subcommittee, Representative Peter H. Kostmayer of Pennsylvania, who said it was a "stupid oversight" not to ask for a prompt investigation of the allegations, which concerned the Nine Mile Point 1 nuclear plant in Oswego, N.Y.

Witnesses repeatedly cast doubt on Mr. Stello's judgment in approving the investigation of Mr. Fortuna, which was an unprecedented procedure for the Nuclear Regulatory Commission that involved a \$6,000 cash payment to the technician, secret meetings in hotel rooms and apparent violations of the commission's handbook on respecting the rights of targets of investigations.

Mr. Kostmayer and others said the reason for the investigation of Mr. Fortuna was a longstanding feud between

lo's, Sharon Connelly. Several years earlier, Mr. Fortuna had exposed an improper attempt by Mrs. Connelly to shield one of her subordinates from a charge of sexual harassment.

The hearing today is not formally related to the confirmation process for Mr. Stello, but members of the subcommittee said they hoped it would play a role.

Testimony About a Tape

Among the other highlights today was extended discussion of a tape, which the commission received from the informer in exchange for the \$6,000 and which did not appear to implicate Mr. Fortuna after all. A judge hired by the commission to investigate Mr. Fortuna said in testimony that the tape appeared to have been edited.

Despite a spirited exchange between Mr. Kostmayer and Mrs. Connelly, who also appeared as a witness, it was never made clear exactly what Mr. For-



Victor Stello Jr., right, former chief of staff of the Nuclear Regulatory Commission, said he had kept secret for seven months allegations of drug use and safety problems in a New York State case. He wanted to testify at hearing with Democratic general counsel of the commission.

NYT - NATIONAL Page A17

tuna was being accused of.

Mrs. Connelly, whose job is to investigate wrongdoing by commission employees, said one focus of the inquiry was Mr. Fortuna's relationship with an anti-nuclear activist in Massachusetts, Stephen B. Comley. The tape in question is a telephone conversation between the two.

Mr. Fortuna was deputy director of the Office of Investigations, which looks into allegations of wrongdoing at nuclear plants. He has been on leave for seven months and is now assigned to a job in the agency's Freedom of Information Office. Mr. Fortuna said today that he has spent \$60,000 on legal and other expenses, most of it borrowed from his parents.

Mr. Kostmayer said the interim report by the judge found that Mr. Fortuna had used rough language in the conversation and appeared improperly to give advice to Mr. Comley, who was planning to present evidence to the Ju-

stice Department about falsification of papers in the construction of the Sea Brook nuclear plant in New Hampshire.

Mr. Fortuna, who is a former assistant district attorney and prosecutor, said in an interview that Mr. Comley had provided important safety information and that he was cultivating the man as a source.

Also testifying was Ben B. Hayes, the director of the Office of Investigations, who said, "In my 27 years of Government service, I have never seen an investigation as perverted." He praised Mr. Fortuna.

The hearing today follows a report by the Senate Governmental Affairs Committee that also cast doubt on Mr. Stello's judgment. The chairman of that committee, John Glenn, Democrat of Ohio, has not taken a public position on the Stello nomination, although he sits on the Senate Armed Services subcommittee that will take up the matter first.

Panel Sees Animosity Behind Inquiry on Nuclear Body

By MATTHEW L. WALD

A Senate committee said yesterday that an internal investigation at the Nuclear Regulatory Commission of charges of misconduct by a high-ranking official appeared motivated as much by "personal and professional animosity" as by any legitimate need.

The investigation involved a payment of \$6,000 in cash to an informer, surreptitiously recorded tapes of telephone conversations and commission officials lying to each other, said a report issued by the Senate Government Operations Committee.

The investigation has aroused interest because it was approved by the commission's top staff official, Victor Stello Jr., whom President Bush recently nominated to be head of production at the nation's troubled nuclear weapons complex. Mr. Stello has not been confirmed by the Senate, but he started the job on an acting basis last week.

'Lack of Good Judgment'

Senator John Glenn, an Ohio Democrat who is chairman of the committee, said the investigation showed "an unseemly lack of good judgment" by high-level staff members at the commission, which oversees civilian nuclear plants.

The investigation under scrutiny was pursued by Sharon R. Connelly, then head of the commission's Office of Inspector and Auditor, against Roger Fortuna, then deputy director of the Office of Investigation.

Two years ago, Mr. Fortuna testified against Mrs. Connelly when she was accused of trying to shield her deputy from charges of sexual harassment.

Late last year Mrs. Connelly, whose office handles the commission's internal investigations, received a complaint about Mr. Fortuna from a former technician at the Nine Mile Point 2 reactor, near Oswego, N.Y.

The former technician, Douglas Ellison, said Mr. Fortuna, whose office is responsible for looking into reactor

The committee said the investigation wasted money.

safety problems, had not adequately handled safety complaints Mr. Ellison had expressed.

Among the panel's findings is that in seeking information derogatory to Mr. Fortuna, Mrs. Connelly asked the agency's top lawyer if she could hire an informant as a "consultant" and pay him for information and tapes of telephone conversations. The lawyer told her that she probably could not unless public health and safety was involved.

Informant's Allegations Limited

Senate investigators later questioned the lawyer, William Parker, the commission's general counsel, and he said that in hindsight he should have urged the commission to subpoena the tapes rather than pay for them, the report said.

The report does not center on Mr. Stello, but it says that he ruled that the informant might have information on reactor safety. The safety allegations the informant provided were so limited, the Senate report said, that "the case could equally be made that this safety rationale mere provided a convenient cover to do something that the N.R.C. general counsel had otherwise indicated could not be done — putting someone on the payroll to provide information pertaining to an internal affairs investigation."

A spokesman for the commission, Joseph Fouchard, said that his agency had received the study yesterday and was studying it.

A judge chosen by the commission to investigate has concluded that Mr. Fortuna had acted appropriately in his in-



The New York Times

Victor Stello Jr. as the top-ranking staff official at the Nuclear Regulatory Commission approved a \$6,000 cash payment for an informer in an internal commission investigation.

vestigation of the allegations made by the technician, Mr. Fouchard said.

But the judge is still investigating whether Mr. Fortuna improperly disclosed derogatory information about the informer to an anti-nuclear advocate or received information from the activist that he should have passed on to others at the Nuclear Regulatory Commission.

The activist, Stephen B. Comley, has been subpoenaed and ordered to turn over tapes he might have of conversations between himself and Mr. Fortuna. Mr. Comley of Rowley, Mass., who heads a group, We the People, has refused to testify or provide tapes and

asserted that he receives confidential information from nuclear plant workers and cannot do anything that would damage their confidence in him.

Recently Mr. Comley was fined \$200 a day by a Federal judge in Boston, and the fines could increase to \$1,000 if he does not comply. We the People was instrumental in bringing to light last year the presence of commercial parts in nuclear plants around the country.

According to the Senate report, the information that Mr. Fortuna might have disclosed improperly to Mr. Comley was that the former technician had pleaded guilty to attempted sexual abuse of a 13-year-old girl. It is not clear what information Mr. Comley might have given Mr. Fortuna.

In the disputed investigation, Mr. Ellison, the informant, was paid \$6,000 and put up in a hotel near Washington for two weeks while Mrs. Connelly and two other staff members met with him. Mrs. Connelly gave him a code name and arranged her vacation for the time he was there, the report said.

The commission has asserted that Mrs. Connelly wanted to pay him rather than subpoena the tapes because Mr. Ellison had threatened to destroy the tapes. But the Senate report said that there was no evidence for that and that "to the contrary, he was threatening to 'go public.'"

The Senate committee concluded that the investigation was unfair to Mr. Fortuna, violated established principles of internal investigations and should not have so heavily involved top management. The investigation, the committee said, "represented a waste of government funds;" the investigation was "incompetently conducted, punctuated by management intervention and other problems."

"In sum, we found very little reason for the course of conduct of this investigation," the committee said.

Mr. Fouchard said that the commission could not comment further because the matter is still under internal investigation.

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We The People, Inc.
of the United States

Stop Chernobyl Here

PRESS PACKETS SUMMARIES

Valley Advocate, November 13, 1989

This five page newspaper article chronicles nursing home owner Stephen Comley's \$170,000 confrontation with the Nuclear Regulatory Commission (NRC). His flamboyant crusade to expose NRC downgrading of nuclear plant safety requirements has entangled Comley in a witchhunt by Bush nominee for Assistant Secretary of Energy and former top NRC bureaucrat Victor Stello against veteran NRC investigator Roger Fortuna.

Stello paid a dubious informant for testimony that Comley has tapes of telephone conversations with Fortuna. A federal court has ordered Comley to comply with an NRC subpoena of the tapes, although Comley has not said whether they exist or not. He believes the subpoena violates his Constitutional right to freedom of association. He also maintains the NRC lacks subpoena power in internal administrative matters such as this one.

In the spirit of civil disobedience as practiced by Dr. Martin Luther King, Jr. Comley is resisting the illegal subpoena and the court's order. At a contempt-of-court cost of \$1000 per day since last July, Comley worries about the future of the family nursing home. Ironically, it was his concern for the nursing home residents which first alerted him to the NRC's shortcomings. In 1986 Victor Stello stated no emergency evacuation plans were necessary for the nursing home, just 12 miles from the Seabrook nuclear power plant. Instead, Stello advised, resident should be left in place during a nuclear accident and be given potassium iodide to drink to saturate their thyroids.

Comley's outrage at Stello's suggestions led him to found We The People, a non-profit nuclear power fact finding organization based in Rowley, Mass. In the course of his investigations into the NRC's callous attitude toward elderly and disabled people he uncovered that tens of thousands of counterfeit, substandard valves, piping materials, circuit breakers have been built into more than half of U.S. nuclear power plants. (This was noted in New York Times article of 8/4/89 enclosed). The NRC downgraded safety standards so nuclear utilities would not have to replace the dangerous materials. Comley's efforts to publicize the NRC's irresponsibility led him into his current troubles with the agency.

Salem Evening News, December 2, 1989

The U.S. District Court of Appeals upheld the NRC subpoena of telephone tapes it says Comley has. The court acted on NRC Judge Rosenthal's sworn testimony that the alleged tapes contain information the NRC requires to protect public safety.

U.S. NRC Memo: Rosenthal to NRC Commissioners, October 18, 1989

Rosenthal stated that there is not "the slightest suggestion" Comley has safety-related information which the NRC does not already have.

Rep. Peter Kostmayer Letter to NRC Chairman Carr, December 12, 1989 and Attorney Ernest Hadley's Letter to Rep. Peter Kostmayer, January 22, 1990

Kostmayer questioned the discrepancy between Rosenthal's sworn testimony and his memo to the Commissioners. He suggests the NRC either drop its subpoena against Comley or forego licensing of the Seabrook nuclear plant until he complies.

NRC Chairman Carr Letter to Rep. Kostmayer, December 19, 1989

Carr enclosed a 4-page memo from Rosenthal stating their is no discrepancy between his testimony in court and his letter to the commissioners. Carr wrote "there is...no basis to conclude" that Comley has information on safety concerns unknown to the NRC.

We The People Press Release, October 12, 1989

Comley attended hearing held by Rep. Kostmayer regarding Victor Stello's witchhunt against Roger Fortuna.

New York Times, October 13, 1989

At the Kostmayer hearing, Victor Stello admitted he kept safety violations secret because he did not want to alert Roger Fortuna to the investigation against him.

New York Times, August 4, 1989

A senate committee concluded that the internal investigation against Roger Fortuna appeared to be motivated by "personal and professional animosity."

New York Times, March 18, 1988

Comley gave U.S. Attorney Rudolph Guiliani information on counterfeit, substandard materials built into nuclear plants.

Stephen Comley Letter to U.S. NRC Victor Stello, July 18, 1988

Comley asked when the counterfeit materials problem was first discovered by the NRC.

U.S. NRC Thomas Murley Letter to Stephen Comley, August 15, 1988

Murley states the NRC first learned of the counterfeit materials problem January 17, 1988. In May 1988 the NRC told nuclear plant owners about the problem and ordered them to find and replace substandard materials.

Stephen Comley Letter to President Reagan, August 15, 1988

Comley requested a meeting with President Reagan and stated there are people within the NRC willing to confidentially inform him of NRC actions which deliberately jeopardize the public.

U.S. NRC Thomas Murley Letters to Stephen Comley, October 4, 1988

Murley dismissed several safety concerns specific to Seabrook Station. He explained why the NRC cancelled orders to nuclear plants to find and replace substandard materials: a utility-commissioned engineering analysis concluded the NRC could lower safety standards so the materials would not require replacement.

The Daily News, October 27, 1987

Comley attended a Republican Inner Circle gathering, unfurled a We The People banner and handed it to President Reagan. At the same time he gave the President a letter detailing NRC policies of covering up information like the counterfeit materials issue, thus endangering the public.

Boston Herald, December 10, 1988

Counterfeit piping materials, tested and passed by the Seabrook utility and the NRC, failed an independent lab test.

Boston Globe, August 18, 1988; The Daily News, August 19, 1988

Comley asked for and was refused permission to fly a banner over the Republican National Convention at the Superdome. The banner read, "Hey George, Stop Chernobyl Here."

Concord Monitor, December 9, 1987

We The People also tried to arrange and was refused permission to fly a banner near the White House during the Gorbachev summit.

The Hampton Union, October 16, 1989

We The People erected a billboard near Seabrook Station visible from a major interstate reading, "DANGER, Seabrook Nuclear Zone, No Evacuation Possible."

The Daily News, December 27, 1989

The Mass. Civil Liberties Union won Comley the right to keep the billboard in place.

NIRS Press Release, December 1, 1989; Inside NRC, December 18, 1989

The Washington, D.C. based Nuclear Information Resource Service, in collaboration with We The People, called on concerned citizens around the U.S. to erect billboards saying, "Congress, Protect U.S. Democracy, Investigate the NRC."

Enclosed are other articles of interest:

Washington Post, September 18, 1986 "Fighting for the Survival of the Unfit"

Washington Post, February 28, 1989 "Zzzzip It-A Liberal Has His Day on The Morton Downey Jr. Show"

York County Coast Star, June 21, 1989 "Nuclear Power Watchdog Group Brings Crusade to Where President Bush Lives"

Journal Tribune Weekend, September 2, 1989

Confiscation of banner which reads, "Mr. Bush, When Chernobyl Happens Here They Won't Evacuate Me." from President Bush's summer home in Maine.

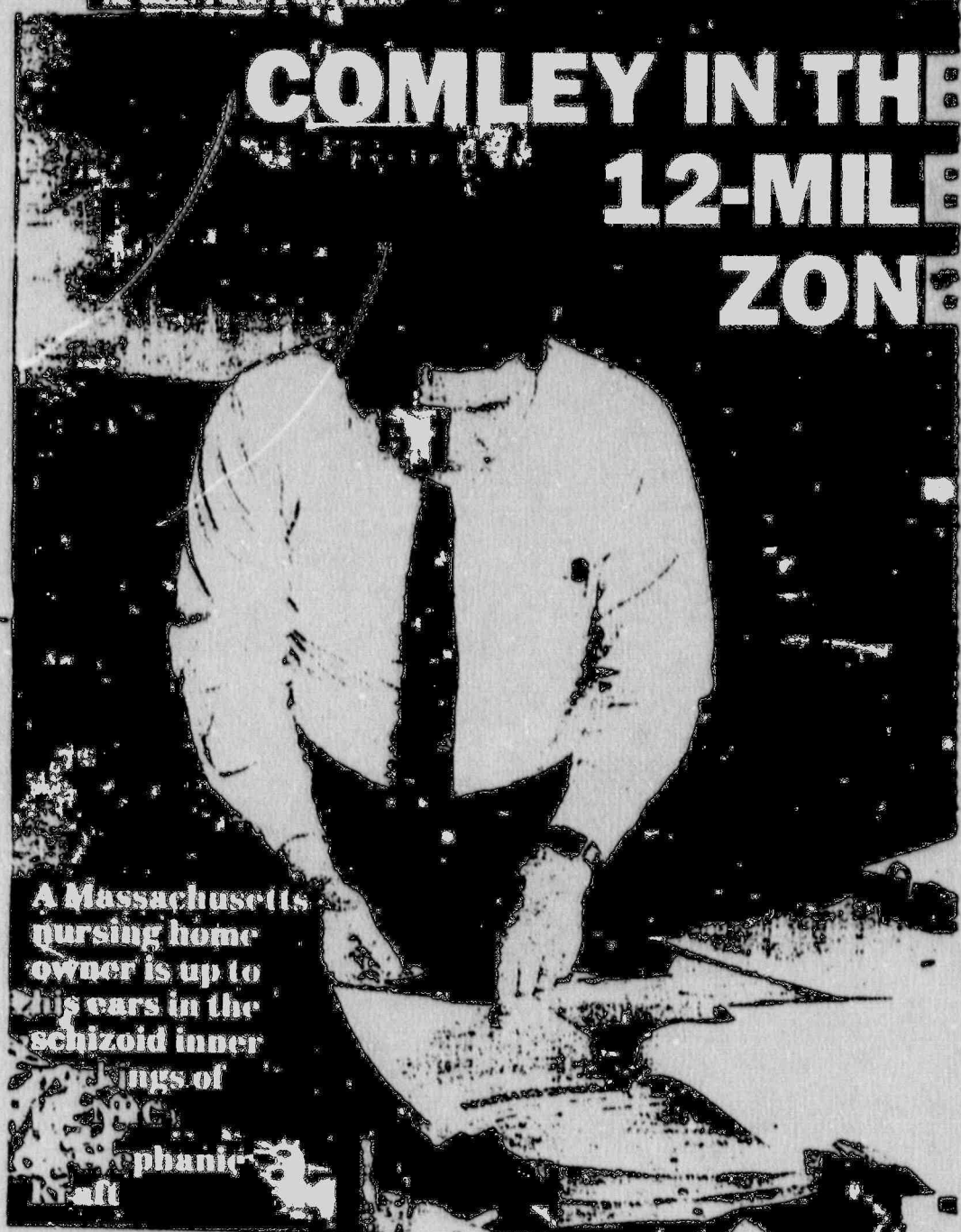
VALLEY
Advocate

from Springfield to Brattleboro

Nov. 22, 1980

THE VALLEY'S NEWS & OPINION WEEKLY

COMLEY IN THE 12-MILE ZONE



A Massachusetts nursing home owner is up to his ears in the schizoid inner workings of the NRC's phantasmagoric Kraft

In the coastal village of Rowley, Massachusetts, Steve Comley, a local nursing home operator, is being fined \$1,000 a day for allegedly withholding information from the Nuclear Regulatory Commission. Like a taxi meter ticking, the fines, now over \$100,000, mount relentlessly as Comley defies a court order to turn over tapes of conversations between himself and NRC whistleblowers, tapes which may not even exist.

Comley founded We the People, the group that unearthed information about thousands of counterfeit and

substandard parts being used in U.S. nuclear power plants. Now he finds himself facing financial ruin at the hands of the agency whose mission he thought he was aiding: the NRC.

Meanwhile, in Washington, Victor Stallo, until recently Executive Director for Operations of the NRC, has been appointed acting Assistant Secretary for Defense Programs in the Department of Energy. (His appointment awaits confirmation by the Senate Armed Services Committee.) Stallo is known for downplaying nuclear safety.



STEVE COMLEY PHOTO

Steve Comley, a nursing home operator, is being fined \$1,500 a day for refusing to turn over tapes of conversations between himself and NRC whistleblowers.

Continued from the cover

concerns, and putting him in charge of cleaning up the nation's notoriously contaminated nuclear weapons plants has been questioned by several members of Congress.

It is bitterly opposed by Comley, a plain-spoken man with a habit of blitzing cities with air ads reading, "The NRC protects the industry, not the people," and other anti-nuclear activists.

What is the connection between the director of a nursing home in an old brick mansion on a hill above the Rowley marshes, and the internal operations of the NRC?

The answer has to do with a conflict inside the NRC over whether its mission is to protect the public health and safety, or to support the nuclear industry. Just as every day sees Comley's fines mount higher and higher, every day sees the NRC's inner war grow more curious, and more public. Comley is under the gun now because he unwittingly became involved in a case that has drawn special Congressional attention to the schizoid inner workings, the misplaced energies, of the NRC.

Iodine On His Desk

As recently as four years ago, Steve Comley was a conservative businessman, a financial supporter of Ronald Reagan, and a member of the Republican Senatorial Inner Circle. But as the licensing process for the Seabrook nuclear power plant began to move ahead, he became concerned about how to relocate his clients if anything should go wrong at Seabrook. Frail elderly people, in wheelchairs, bedridden—how could they be moved from a location just two miles outside the Seabrook evacuation zone?

Comley contacted NRC Executive Director Victor Stello for advice. Close the windows and make them drink potassium iodide, Stello wrote Comley.

Comley—whose family has been in the nursing home business for 45 years, whose business and personal life are dominated by a sense of the needs of the frail and handicapped—has been a man embattled ever since. Today, a bottle of potassium iodide, with a dose identical to those that would be

cause.

In 1986 Comley and other Rowley residents founded the organization that is now We the People. Within months, nuclear industry workers tipped them off that competitors of substandard parts had found their way into nuclear power plants throughout the country—as many as 60 plants. It now appears less "Scallop and Nuke Parts."

Looking for an NRC investigator who would act on information from We the People, Comley found his way to Roger Fortuna, head of the NRC's Office of Investigative (OI).

As it turned out, Fortuna was on the case with his superior, Sharon Connelly, because of past differences of opinion, and because of times when, in the opinion of his boss, Fortuna had been overly concerned about health and safety issues.

A Radio Shack Connector at Nine Mile Point?

At this point the name of Douglas Ellison, a former employee at the Nine Mile Point nuclear plant near Corwaga, New York enters the picture. In 1986, Ellison had given the NRC information about safety violations at Nine Mile Point, including the fact that he himself had installed a connector from a local electrical shop—one version of the story says Radio Shack—instead of a properly qualified piece of equipment in one of the reactor's safety systems.

In the fall of 1986 Ellison, who had once before tipped off the NRC about safety problems at Nine Mile Point, got in touch with Comley and tried to sell him information about more alleged mismanagement of safety procedures by Niagara Mohawk, the operators of Nine Mile Point, and by the northeastern regional office of the NRC. Comley refused to pay Ellison, but tried to enlist him as a source of information. In January 1987, Ellison taped a phone conversation between Comley and Fortuna, without either Fortuna's or Comley's permission.

At the same time, Ellison was trying to sell his information to the NRC, and made successful overtures to Sharon Connelly in the Office of Investigative (OI). Ellison convinced Connelly that he had informa-

WHO IS VICTOR STELLO?

Victor Stello, Executive Director for Operations of the Nuclear Regulatory Commission and now acting Assistant Secretary for Defense Programs with the Department of Energy, has played a prominent part in the Seabrook controversy. It was Stello who pushed for rule changes that now allow utilities to write their own evacuation plans without input from state and local officials—a measure the NRC resoned to after Massachusetts Gov. Mike Dukakis refused to back down from his position that evacuation of the beaches at Seabrook, and of the six Massachusetts towns within the 10-mile evacuation zone, was impossible.

It was Stello who early in 1988 promised the Federal Emergency Management Agency that there would be "stand off only the beach" and unless FEMA changed its statement that beachgoers could not be adequately protected from radiation that might be released in an accident at Seabrook.

As supervisor of the NRC's investigation of the Three Mile Island incident, Stello withheld the information that important reactor test data from the plant had been fabricated. He only passed it on to the Justice Department

after a Times staff member exposed it to the press.

This is the man whose new responsibilities will include clearing up the 17 catastrophically polluted nuclear weapons plants run by the DOE, including Hanford, Washington; Savannah River, Georgia; and Rocky Flats, Colorado.

In a letter to Sen. Sam Nunn, who as Chairman of the Senate Armed Services Committee must review Stello's appointment to DOE, Sen. John Dingell wrote, "I hope that reason will prevail so that Mr. Stello's nomination will not be approved. I suggest that you review Mr. Stello's role in certain situations where I believe the NRC has performed badly. Among these are the failure to deal appropriately with personnel incompatibilities with NRC regulations at the Summer plant, at Comanche Peak, and at the Tennessee Valley Authority. It would also be worth looking into Mr. Stello's role in having staff prepared fire regulations and in sidetracking proposed regulations intended to decrease significantly the likelihood of a major radiation release at any of the 24 commercial boiling water reactors. I hope that reason will prevail so that Mr. Stello's nomination will not be approved."

THE SEN. JOHN GLENN TWIST

A key figure in the Victor Stello confirmation proceedings is Sen. John Glenn, whose constituents in Ohio include residents of the area near Cincinnati and the contaminated Fermat DOE plant. Glenn, who as chairman of the Government Affairs Committee lingers Stello's record intimately, is known to be worried about the Stello appointment. However, he is not actively trying to stop it.

Why not? A Glenn aide who asked not to be identified told us, "Sen. Glenn has said publicly that he has some significant concerns about Mr. Stello. He has also told the Secretary of Energy that he would not spearhead a

move against Mr. Stello because Mr. Stello is a very important member of his safety team."

But can Stello be trusted as a member of the DOE's "safety team?" Asked if Glenn's refusal to sue the appointment was being used to lever a concession from DOE about the cleanup of Fermat and its other facilities, this source said, "I wouldn't want to make statements about that. But [DOE] has oversteered ever a barrel. There are a lot of Ohio plants. Sen. Glenn has been very involved in DOE oversight, and he will continue to be involved, with or without the Stello appointment."

CRIES FROM A BURNING HOUSE

These statements about the way business is carried on at the NRC were given to the People by NRC staff members who asked to remain anonymous, according to Comley.

"Members of the NRC are mostly engineers, so they do not rock the boat—because the only place to go after working for the NRC is to work in the industry."

"We will have a nuclear disaster in the U.S.

worse than Chernobyl. It can happen any day because of the way our plants have been conceptualized and the way they are run."

"This is the American way, the American rule. But when I see a system that is designed to thwart the majority or keep the majority ignorant and then one day it happens and you wonder how it happened. That is not the American way."

ion about safety problems at Three Mile Point, and evidence that Fortuna had violated NRC confidentiality by talking to an outsider, Comley, about internal NRC affairs.

With Stello's authorization, Connelly set up a slush fund to pay Ellison for his supposed information—information Governmental Affairs Committee investigators later said she should have subpoenaed rather than spending over \$10,000 in public funds. Connelly pressed ahead with an investigation of supposed misconduct on the part of Roger Fortuna, centering around the taped conversation between Fortuna and Comley. Meanwhile, Stello he did not forward Ellison's allegations of drug use, an unreported fire, and other dangerous conditions

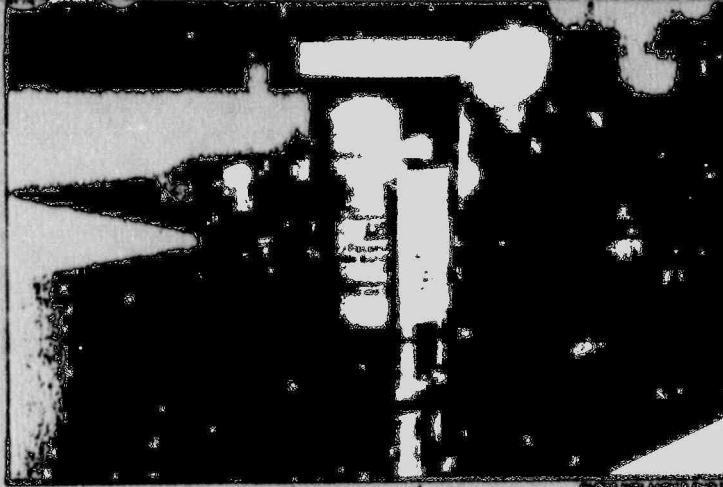
at Nine Mile Point of investigations for seven months in an effort to keep Fortuna from suspecting that he was under investigation.

Last month, in a Congressional investigation, Stello admitted that he had withheld the allegations from investigators, and agreed with Rep. Peter Kostmayer of Pennsylvania that it was a "stupid oversight."

These Folks Don't Eat Angel Hair Pasta

The tape of the Comley-Fortuna conversation—transcripts of which are now on the public record—contained no controversial or even significant information other than that Ellison had been charged with a sexual

Continued on page 9



If there's a nuclear accident, Stallo advised Comley, close the windows and make the nursing home residents drink potassium iodide.

SEABROOK

Continued from page 3

offense. Neither the FBI nor the U.S. Attorney's Office in Baltimore, whom Connelly tried to enlist in her "investigation," found anything in it to suggest wrongdoing on Fortuna's part.

But on the basis of that conversation, Connelly—with Stallo's backing—pursued her accusations that Fortuna had compromised his position by collaborating with an outsider.

Fortuna, rebutting the charges against him before the Government Affairs Committee, eloquently summed up the job of the nuclear safety investigator and responded to Connelly's description of Comley as "a fake."

"We are 'where the rubber meets the road' regarding safety violations involving wrongdoing," he said. "We are at the construction sites, operating sites, at the nuclear material handler's locations. We deal with all types of individuals, including the people with dirt under their fingernails. Some of NRC's biggest safety matters have come from people that NRC nuclear managers have concluded were 'crack-pots.' These folks don't trim the crust from their bread and eat watercress sandwiches and angel hair pasta. They haven't attended law school. Mr. Comley is one such person who I felt had the potential for providing information regarding wrongdoing at nuclear power plants in the Northeast. Unfortunately, since the savage attack by NRC upon me, I have not been in contact with Mr. Comley's group."

Fortuna is not the only NRC employee to complain about mistreatment at the agency. Other NRC employees, such as Maureen Gawler, a former investigator in Connelly's office, described intimidation by high-level NRC officials of employees who disagreed with them. Gawler told the Committee on Government Affairs that within the NRC, "repeatedly, serious allegations of misconduct by high-level agency employees and others in

volving health and safety were ignored." At the same time, she said, much of the agency's time and energy was squandered in "trivial and vindictive investigations of numerous individuals, persecuting them, violating their civil rights, invading their privacy, harassing them... Mr. Fortuna's case is not the exception."

Professional Animosity?

Was Connelly out to get Fortuna, and if so, why? Fortuna said a possible reason was that years before, he and his wife, also an NRC employee, had testified that Connelly had tried to obtain an employee of hers who had been accused of sexual harassment. And testimony by Gawler and others suggests that Fortuna may have been persona non grata in a climate in which internal alliances and the self-interest of the agency came before legitimate safety concerns.

The Government Affairs Committee's verdict on it all was a wry one. They found that Connelly's investigation was "pursued in a questionable manner," "...appeared to be motivated by personal and professional animosity," and "represented a waste of government funds." The problems it embodied "appear to be deeply rooted and systematic," they added. "Congressional action should never have been required to obtain an independent review of the Fortuna investigation."

In the aftermath of the news, Fortuna is still suspended from his post as Deputy Director of the Office of Investigations, relegated to a position in the NRC's Freedom of Information Office with the title of "Investigative Information Officer." And Comley's fines continue to mount as Stallo's appointment moves closer to confirmation or rejection by the Armed Services Committee.

4.

COMLEY

Inside the stately brick mansion that is now the Sea View Nursing Home, the sun shines on the flowers in the greenhouse at the rear of the lobby. Birdwatching and flower tending are favorite activities here.

Steve Comley, whose family turned the old Fenno manor into the Sea View home in 1954, has put the home and his other assets into a trust to try to fend off seizures by the court. His fines now total over \$100,000, but he is adamant: he will not release information that could make it more difficult for other NRC whistleblowers to confide in *We the People*.

Comley's stand is all the more notable in a man who was a Reaganite conservative, a lifetime member both of the Republican Presidential Task Force and of the Inner Circle. He also belongs to the 100 Club of Massachusetts, an organization that supports the families of police killed in the line

of duty. "I respect authority," he says. But he adds that he has "learned the hard way that you've got to get involved."

"I have 80 percent of the town of Rowley behind me," Comley says. That's because even his pro-nuclear neighbors were outraged when they learned that, in case of an accident at Seabrook, they would not be allowed to pick up their children at the regional school, which is within Seabrook's 10-mile evacuation zone.

Comley won't say whether the tapes the NRC is demanding exist or not, but he is frank about the fact that he has confidential testimony from NRC staffers (see "Crises From A Burning House"). Comley says he would testify orally if requested to do so, but would not turn over materials such as tapes because to do so would jeopardize his sources.

BOOTLEGGED NUKE PARTS

Circuit breakers, pipe flanges, nuts, bolts, valves: in a nuclear reactor, these parts must meet the highest standards or crucial safety systems may fail.

In 1987, *We the People* found out that counterfeit and substandard parts were making their way into nuclear reactors across the country, including Seabrook, Pignero and Rowe. The NRC had gotten wind of the situation as early as 1986. But not until May, 1988—after *We the People* began spreading the information around—did the NRC issue a bulletin to its licensees that thousands of substandard parts had been purchased for use in their plants.

Soon it was clear that the NRC and the industry had an epidemic on its

hands. According to NRC records, 369 "suspect" parts had been installed in the Seabrook reactor, and had to be removed. In Canton, N. H., marshals raided factories and seized thousands of counterfeit brand-name circuit breakers, some with phony test certificates.

We the People and Public Citizen, another organization that keeps an eye on nuclear power, have called for a Congressional investigation of the bogus parts problem.

For more information, contact *We the People*, Box 277, Rowley, MA 01969 (508-946-7969), or Public Citizen, 215 Pennsylvania Avenue SE, Washington DC 20003 (202-646-4996).

51



Appeals court rules nuclear activist must release tapes

A News staff report

BOSTON -- A federal appeals court has upheld a subpoena requiring a Rowley anti-nuclear activist to turn over tapes of conversations he allegedly had with a federal nuclear official.

In a ruling issued Wednesday, the U.S. Court of Appeals for the First Circuit refused to overturn a lower court ruling that Stephen B. Comley comply with a subpoena issued by the Nuclear Regulatory Commission.

The NRC claims that Comley, the owner of a Rowley nursing home, possesses as many as 50 tapes of telephone conversations he had with a top NRC official.

Comley, citing his first amendment rights and the need to protect an NRC "whistleblower," has refused to turn over the tapes or even to acknowledge he has them. As a result, he is facing contempt of court fines of \$1,000 per day, which to date total more than \$90,000.

In a sharply worded press release, Comley said he would continue to defy the NRC subpoena.

"The subpoena violates my constitutional right to freedom of expression. Neither the federal court judges nor the NRC judge have any evidence at all to show that public safety is endangered," said Comley, director of the organization, We the People.

Comley's attorney, Ernest C. Hadley, said he was still reviewing the decision. He said his client's options include asking the court to reconsider its decision, or requesting the U.S. Supreme Court to hear the matter.

Asked whether his client faced imprisonment now that his appeal had been rejected, Hadley

said, "That's really more up to the government than to me."

Assistant U.S. Attorney Paul G. Levenson said his office obtained a settlement in U.S. District Court several weeks ago allowing the government to collect the first portion of the fines owed by Comley. He said the matter had been handed over to the U.S. Marshal's office for execution.

"Obviously we're always hopeful Mr. Comley will comply with the subpoena which both the district court and the court of appeals" have affirmed, Levenson said.

Comley's legal battle with the NRC stems from conversations the agency claims he recorded with Roger Fortuna, an NRC official who is the subject of an internal agency probe. The NRC says it needs the tapes to determine if Fortuna disclosed confidential agency information to Comley.

But Comley claims that the subpoena was issued against him because of criticism he levelled at former NRC Chief of Staff Victor Stello Jr.

He has also pointed to comments from several congressmen accusing Stello of launching the probe against Fortuna for personal reasons.

In seeking to overturn the subpoena, Comley's attorney claimed the NRC did not have the authority to issue the order because its probe against Fortuna was motivated by "bad faith."

He also asserted that the subpoena would infringe on his first amendment right to freedom of association, and expose to retaliation those who provide information to Comley's organization.

The appeals court rejected both arguments.

IT IS UNFORTUNATE THE COURTS DO NOT CHALLENGE THE NRC LIKE THEY HAVE ME. THE JUDGES SAID I HAVE FAILED TO PRODUCE CONCLUSIVE EVIDENCE THAT THE NRC INVESTIGATION IS BEING CONDUCTED IN BAD FAITH.

BOTH THE APPEALS AND DISTRICT COURTS HAVE DENIED MY ATTORNEY'S MOTIONS SEEKING HEARINGS ALLOWING DISCOVERY FOR MORE EVIDENCE.

HOW CAN WE PRODUCE THE EVIDENCE THEY SAY WE NEED WHEN THEY DENY US THE CHANCE?

THE APPEALS JUDGES ALSO RULED THE NRC HAS SHOWN IT HAS A COMPELLING NEED FOR THE INFORMATION, IN ORDER TO PROTECT PUBLIC SAFETY, AND HAS NO OTHER MEANS OF OBTAINING IT.

THAT'S NOT TRUE EITHER. THEY COULD PUT ME ON THE STAND AND I WILL TELL THE TRUTH. I THINK THAT'S JUST WHAT THE NRC DOES NOT WANT TO HEAR. THE NRC HAVE NOT ONLY RATIONALIZED THAT IT'S UNIMPORTANT TO HAVE A SAFE EVACUATION PLAN, THEY HAVE NOW CONVINCED THE COURTS ON THE 200TH ANNIVERSARY OF THE BILL OF RIGHTS THAT MY LIBERTY OF ASSOCIATION IS IN EFFECT EXCEPT WHEN I ASSOCIATE WITH MEMBERS OF THE NRC. IN ESSENCE, THEY TORE THE CONSTITUTION UP.

WE WILL PROVIDE THIS PRECEDENT SETTING DECISION UPON REQUEST.

PLEASE CALL (508)948-7959.

OVER



OFFICIAL USE ONLY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20545

October 18, 1989

MEMORANDUM FOR: Chairman Carr
Commissioner Roberts
Commissioner Rogers
Commissioner Curtiss

FROM: *CRH* Alan S. Rosenthal

SUBJECT: SUPPLEMENT TO INTERIM REPORT
OF INVESTIGATION (89-02)

In his October 13, 1989, article in the New York Times addressed to the hearing the previous day conducted by the Rostmayer subcommittee, Matthew Wald revealed that, "in an interview," Mr. Fortuna had stated that "Mr. Conley had provided important safety information and that he [Fortuna] was cultivating the man as a source."

I found this representation most interesting. For, at no time during the extended March 22, 1989, investigative interview of Mr. Fortuna was there the slightest suggestion on his part that he -- or, indeed, anyone else in the agency -- had received important information from Mr. Conley. To the contrary, toward the conclusion of the interview Ms. Chidakel (who was participating in the interview along with Ms. Cyr and me) opened up the following line of inquiry:

MS. CHIDAKEL: I would like to put the question once and for all. Have you ever obtained any crucial information provided to you by Conley which pertained to official NRC matters? Have you ever obtained any crucial information from Conley about anything within the NRC jurisdiction? Anything that you would consider important information?

THE WITNESS [Fortuna]: Like a violation about a plant?

MS. CHIDAKEL: Anything that is important.

THE WITNESS: He has given me information but I --

MS. CHIDAKEL: You what? I'm sorry, I couldn't hear you.

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THE WITNESS: I was aware of it. It's like he was feeding back newspaper articles and things like that.

MS. CHIDAKEL: Have you ever withheld any information from your supervisors that you think in hindsight should have been provided to them?

THE WITNESS: Gee I don't. I'm trying to think of all the times and the contacts and the talking and what have you. But I'm confident that if there was anything that I thought was important.

MR. GREENSPUN (Mr. Fortuna's attorney): You mean really material and unknown to anybody except Mr. Conley who then reported it to you?

THE WITNESS: Yes.¹

Needless to say, had Mr. Fortuna acknowledged receiving significant safety information from Conley that was not already known within the agency, the next question would have sought to determine whether that information was passed on to other NRC officials (and, if so, when and to whom).

The Wald article does not clearly state whether Mr. Fortuna was asserting that the "important safety information" was provided to him or, rather, to someone else within the agency.² Insofar as I am aware, however, Mr. Conley has never supplied anyone within the agency with new information found to be of possible safety significance. In this connection, in a press release issued on October 12, 1989, on the occasion of the Rostmayer hearing, We The People of the United States, Inc., (the organization founded by Mr. Conley and of which he is the executive director) claimed (at 3) that it was responsible for bringing to the NRC's attention the fact that over half of the nuclear power plants in the United States had counterfeit substandard materials built in them. The press release further maintained (at 3-4) that the organization had forced the issuance of Bulletin 88-03 (May 6, 1988) confirming that fact. In a telephone conversation yesterday, however, B.

¹ Transcript of March 22, 1989, Fortuna interview at 174-75.

² Mr. Fouchard may possibly be able at some point to obtain clarification from Mr. Wald.

~~William Beach, the Chief of the Vendor Inspection Branch in the Office of Nuclear Reactor Regulation, informed me that there was no substance to those claims -- i.e., that the agency had learned of the counterfeit parts problem from other sources and had not issued Bulletin 88-05 because of Mr. Comley and his organization.~~

In the foregoing circumstances, I do not believe that Mr. Fortuna's representation to Mr. Wald (as reported by the latter) counters to any extent the findings and conclusions set forth in my September 21 interim report. On the one hand, if Mr. Fortuna meant to suggest that he had received safety significant information from Mr. Comley, these questions remain: why did he not so acknowledge in the March 22 interview and what use was made of that information? On the other hand, if he was asserting that Mr. Comley had provided such information to some NRC official or employee other than himself, the still unresolved questions become: what information and to whom was it furnished? During the course of my investigation, no person (Mr. Fortuna included) has averred that Mr. Comley has given the Commission worthwhile information and, once again, it appears that the claim to that effect contained in his organization's press release is not accurate.

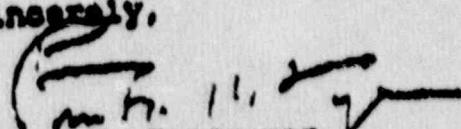
cc: Martin G. Malsch, OIG

Does NOT REVEAL
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you explain this basis for this assertion, especially in light of the evidence that Mr. Fortuna had in fact not divulged such information.

Also, I would like to add that I find particularly ironic Judge Rosenthal's determination to keep the Fortuna investigation open until the Conley subpoena is answered in light of the NRC's recent determination to grant a full power license to the Seabrook facility. Since any health and safety information that Conley's tapes might contain would likely relate to Seabrook, long his chief concern, it seems evident to me that either the Fortuna investigation should be closed if NRC has determined that Conley's tapes contain no health and safety information or else that the full power license for Seabrook should be withheld until such time as Mr. Conley answers his subpoena. I would also appreciate your addressing this matter.

Sincerely,


Peter H. Rostmayer
Chairman
Subcommittee on General
Oversight and Investigations

ERNEST C. HADLEY

Attorney at Law *

P.O. Box 3121

Wareham, MA 02571

(508) 291-1354

January 22, 1990

Honorable Peter H. Kostmayer, Chairman
Subcommittee on Oversight and Investigations
Committee on Interior and Insular Affairs
U.S. House of Representatives
Washington, D.C. 20515

re: Comments of We the People, Inc.
Seabrook Station Nuclear Power Plant

Dear Chairman Kostmayer:

On behalf of the above referenced client, I am submitting to your Subcommittee information relating to Seabrook Station in Seabrook N.H. and to the failure of the Nuclear Regulatory Commission ("N.R.C.") to address safety conditions at Seabrook and other nuclear power plants throughout the country. As I am sure you are aware, the executive director of We the People, Stephen B. Comley, has received considerable attention for his failure to comply with a subpoena issued by the N.R.C. in the course of its investigation of the activities of Roger Fortuna, former deputy director of the Office of Investigation. I understand the Subcommittee has taken the view that it would be inappropriate to hear testimony from Mr. Comley while he is subject to a court order finding him in contempt for failure to comply with the subpoena. However, I hope the Subcommittee's view will not prevent it from reviewing the enclosed information to determine whether it is relevant to any oversight functions the Subcommittee may have with respect to the N.R.C.

I note that on December 12, 1989 you sent a letter to N.R.C. Chairman Kenneth Carr asking administrative judge Alan Rosenthal to explain an apparent contradiction between statements made to the Commissioners and an affidavit presented to the U.S. District Court for the District of Massachusetts in the subpoena enforcement proceedings. Also, in that same letter, you asked the Commission to explain the inconsistency in keeping the Fortuna investigation open, given Judge Rosenthal's determination that Mr. Comley had never supplied significant information to the N.R.C., and its recent determination to grant a license to the Seabrook Facility, given the fact that any information Mr. Comley has would likely relate to Seabrook. Naturally, we were quite disappointed with the response of Chairman Carr and Judge Rosenthal to your inquiries. The subpoena proceedings have now gone on for some ten months and not once has the Agency asked Mr. Comley if he has any concerns related to the safety of the Seabrook Plant.

* Admitted in Massachusetts, Washington, DC

Chairman Kostmayer
January 22, 1990
page two

The actions of the N.R.C. in pursuing its "vendetta" against Mr. Fortuna and, in the process, attempting to discredit Mr. Comley raise serious questions about the real motives of the Agency. Based on the previous reports of Senator Glenn and Representative Sharp, I think it is fair to say that I am not the only one who has come to this conclusion. Unfortunately, the U.S. District Court and the U.S. Court of Appeals for the First Circuit did not share this view based on the summary nature of the enforcement proceedings. Both Courts indicated that it was necessary under the law to enforce the subpoena based on a showing that the documents sought were reasonably described and were sought for some arguably legitimate purpose. The nearly impossible burden of proving bad faith in issuance of the subpoena was placed upon Mr. Comley without the right to conduct discovery or to an evidentiary hearing.

As a lawyer, I find the summary nature of administrative enforcement proceedings to be entirely foreign to any concept of due process. Since courts are likely to continue using summary proceedings for enforcement of administrative subpoenas based on the notion that Congress intended summary enforcement proceedings, it may be an area which your Subcommittee should explore to determine if it is appropriate to give federal administrative agencies such sweeping authority to trample the rights of individual citizens. Certainly, I do not argue for the proposition that every subpoena enforcement proceeding should be encumbered with years of discovery, trial, and appeals. However, I do not believe that administrative agencies of the federal government should be free to intrude upon the lives of private citizens merely based on the conclusory statement of an agency employee that he or she has reason to believe that the subpoena should be enforced. Judge Rosenthal has never been asked to explain precisely what in the transcripts provided by Mr. Ellison led him to conclude that either Mr. Fortuna had divulged confidential information to Mr. Comley or Mr. Comley had provided significant information to Mr. Fortuna which was not transmitted to other components of the N.R.C. I suspect that unless your Subcommittee or the N.R.C.'s new inspector general demands a cogent explanation, we shall all remain mystified as to the basis for Judge Rosenthal's conclusion.

As indicated in the introduction to this letter, I am providing certain information developed by We the People concerning Seabrook and other nuclear power plants. I think the information raises two independent questions: 1) how safe are the nation's nuclear power plants? and, 2) how vigorous is the N.R.C. in pursuing public health and safety questions?

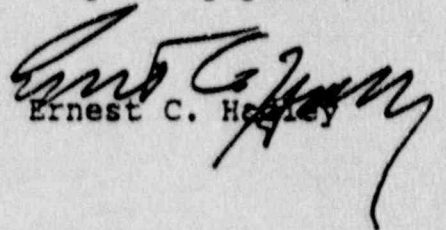
The first document provided is an analysis of the potential use of counterfeit parts in the Seabrook Station. Also provided is an analysis of the use of counterfeit and substandard materials in plants throughout the United States, which previously was sent

Chairman Kostmayer
January 22, 1990
page three

to all members of Congress. Finally, I provide the endorsements of a call for independent investigation of the N.R.C. by We the People from some of your colleagues as well as other public interest organizations.

I hope this information proves useful. If I can be of any further assistance, please feel free to contact me.

Very truly yours,


Ernest C. Hooley

cc: Stephen Comley
enclosures



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20548

December 19, 1989

The Honorable Peter H. Kostmayer, Chairman
Subcommittee on Oversight and Investigations
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, D.C. 20515

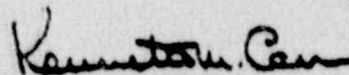
Dear Chairman Kostmayer:

In response to your letter dated December 12, 1989, relating to an alleged conflict between the views expressed in Judge Alan Rosenthal's October 18 memorandum and his statements in his affidavit submitted to the U.S. District Court for Massachusetts, I am forwarding Judge Rosenthal's memorandum dated December 14. Judge Rosenthal concludes that there is no such conflict and provides a detailed explanation supporting that conclusion.

With respect to your suggestion that the Seabrook operating license be withheld until Mr. Comley answers his subpoena, I can inform you that a full power license may not be issued at this time and will not be issued until the Commission concludes its immediate effectiveness review and determines that full power licensing is appropriate. As Mr. Rosenthal's memorandum suggests, there is simply a possibility that the information Mr. Comley is currently withholding, contrary to judicial mandate, deals with safety-related matters. While that possibility must continue to be explored, there is at present no basis to conclude that Mr. Comley's tapes would disclose safety concerns relating to the Seabrook plant that the NRC staff has not already considered.

The Seabrook adjudicatory licensing proceeding includes no open issue related to Mr. Comley; however, any information provided to the staff will be appropriately considered in its assessment of plant-readiness. The Commission will receive that assessment in a briefing to be held no earlier than January 18, 1990 and consider it before making its determination on license issuance.

Sincerely,


Kenneth M. Carr

90054040243
JP
Enclosure:

Memorandum from Alan S. Rosenthal
to Chairman Carr dated Dec. 14, 1989

cc: The Honorable Barbara Vucanovich



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20545

OFFICIAL USE ONLY

December 14, 1989

MEMORANDUM FOR: Chairman Carr
FROM: *ASR* Alan S. Rosenthal
SUBJECT: CONGRESSMAN KOSTMAYER'S DECEMBER 12,
1989 LETTER

I am in receipt of a copy of Congressman Kostmayer's December 12, 1989 letter to you. In that letter, Mr. Kostmayer points to what he deems to be an apparent conflict between a statement in my October 18, 1989 memorandum to the Commissioners and a certain representation in the June 19, 1989 affidavit that I supplied to the United States District Court for the District of Massachusetts in the proceeding seeking enforcement of the subpoena issued to Stephen B. Comley.

In actuality, no such conflict exists. Indeed, the only possible conflict disclosed in the October 18 memorandum relates to the testimony given by Roger A. Fortuna during his formal interview by me on March 22, 1989 -- an interview subject to 18 U.S.C. 1001 (the provision of the Federal Criminal Code concerned with, among other things, the making of false statements or representations in connection with any matter within the jurisdiction of an agency of the United States). My reasons for these conclusions are as follows:

1. My October 18 memorandum to the Commissioners was prompted by an article in the October 13, 1989 edition of the New York Times, written under the by-line of Matthew Wald. Addressed to the hearing the previous day conducted by Mr. Kostmayer's subcommittee, the article revealed that, in an interview (presumably with Mr. Wald), Mr. Fortuna had stated that "Mr. Comley had provided important safety information and that he [Fortuna] was cultivating the man as a source."

I had found that portion of the article to be most troublesome. It was my impression then, and it continues to be my impression today, that Mr. Wald is a reputable reporter who would not misrepresent what he was told in an interview. I thus had to assume that, in fact, the account in the Wald article accurately reflected what Mr. Fortuna had stated in an interview following the subcommittee

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hearing. But, as I went on to explain in the October 18 memorandum, it was difficult to square the statement with Mr. Fortuna's testimony during the March 22 interview of -- at least if (as seems quite likely) Mr. Fortuna intend to be understood by Mr. Wald as asserting that he was the recipient of Mr. Comley's "important safety information". For, as I noted in the October 18 memorandum, during the March 22 interview Mr. Fortuna had disclaimed the obtainment of any worthwhile information from Mr. Comley and my investigation to date has not disclosed the receipt of any such information by other persons within the Commission.

I must add on this score that, although not alluded in my October 18 memorandum, my concern regarding the Fortuna statement reported by Mr. Wald was heightened by incident occurring on the day of the subcommittee hearing. Before the hearing commenced, I had occasion to review Mr. Fortuna's prepared testimony. That review disclosed the entirely inaccurate statement in that prepared testimony that I had sent a 1099 tax form to Mr. Ellison in connection with the consultant payment he had received from the NRC. That I had taken that step "only after [I] received press and congressional inquiry." I brought the inaccuracy to Mr. Fortuna's attention, believing at the time that it was inadvertent on his part and that he would therefore welcome the opportunity to correct his prepared testimony. Unfortunately, I was totally wrong in that belief. Far from correcting the error, Mr. Fortuna repeated it in the course of reading his prepared testimony once he took the witness stand. In calling this to the attention of Mr. Kostmayer in my own oral testimony later in the day, I was compelled to note my opinion that there was substantial doubt that Mr. Fortuna was interested in putting the truth before the subcommittee. When I read Mr. Wald's article the following day, a similar doubt arose respecting Mr. Fortuna's testimony within the agency.

2. Against this background, I now turn to the claim of an apparent conflict between the October 18 memorandum and my June 19 affidavit. That conflict is said by Mr. Kostmayer to stem from the statement at the conclusion of the memorandum that

During the course of my investigation, no person (Mr. Fortuna included) has averred that Mr. Comley has given the Commission worthwhile information and, once again, it appears that the claim to that effect contained in his organization's press release is not accurate.

The June 19 affidavit does not contain a contrary representation. Nowhere in that affidavit did I imply, let alone state explicitly, that I had in my possession the averment of Mr. Fortuna or any other interviewed person that Mr. Comley had given the Commission worthwhile information. Nor have I made such a claim in any other document prepared by me. In my September 21 interim report, for example, I explicitly observed (at page 54) that "there is insufficient evidence in the existing record to mandate a finding that Fortuna improperly provided Comley with confidential official information or improperly failed to pass on to others in the NRC information supplied by Comley" (emphasis in original).

All that I stated in my affidavit of present relevance is (at pages 2-3) that I had "listened to the recording of the January 14, 1987 conversations [between Messrs. Fortuna and Comley] and [had] reviewed a transcript of that recording. The recording led me to conclude that the employee [i.e., Mr. Fortuna] may have disclosed sensitive and confidential NRC information to Mr. Comley and may have failed to disclose to other NRC officials relevant information that he had received from Mr. Comley" (emphasis supplied). I fully stand by that representation, which was made, of course, with full awareness of Mr. Fortuna's disclaimer in his March 22 interview. That disclaimer was, of course, wholly self-serving. (As noted in my October 11 memorandum, had Mr. Fortuna acknowledged that he had received significant information from Mr. Comley, the next question would have sought to determine whether that information was passed on to other NRC officials (and, if so, when and to whom).) As such, the disclaimer could not have the effect of negating the impression left by the January 1987 Fortuna/Comley telephone conversations.

Those conversations are analyzed in detail in my September 21 interim report and, because both the Commission and Mr. Kostmayer have copies of that report, need not be rehearsed here. I would simply refer Mr. Kostmayer to the discussion at pages 56-62 of the report, which explains why I concluded (at page 59) that, notwithstanding Mr. Fortuna's disclaimer (noted at pages 47-48 of the report), "the Comley/Fortuna exchanges raise the possibility that Fortuna may have unjustifiably withheld from others within the NRC information that had been supplied to him by Comley." In that connection, I went on (ibid) to observe that while the January 1987 telephone conversations fell short "of converting the possibility of withheld information into a reasonable certainly that such occurred, they do give cause to inquire further (through the Comley subpoena)." Once

4

again, I have been given no cause to pull back from that observation -- which, to repeat, rested on the content of the January 1987 telephone conversations and not on what an witness (including Mr. Fortuna) might have told me in the course of an interview. In these circumstances, the purported conflict between my June 19 affidavit and the October 18 memorandum (which did not even mention any recorded Fortuna/Comley telephone conversations) simply does not exist.

3. It obviously would be inappropriate for me to comment on Mr. Kostmayer's attempt to link to the Seabrook proceeding my "determination to keep the Fortuna investigation open until the Comley subpoena is answered." Suffice it to say, I have no apologies to offer respecting my conviction that the investigation should not be closed until that matter is resolved. It well may be that Mr. Fortuna (and perhaps others) find this conviction to be distressing. If so, there is only Mr. Comley to blame. Two federal courts have rejected outright his attack on the validity of the subpoena. Yet Mr. Comley continues his lawless disregard of the mandates of these courts. I find it both surprising and regrettable that the concern over the treatment of Mr. Fortuna has not been accompanied by a condemnation of Mr. Comley's conduct.

If I can supply any further information in response to Mr. Kostmayer's letter, please let me know.

¹ My reference in the October 18 memorandum to the inaccuracy of the claim in the press release issued by Mr. Comley's organization was in the context of that specific claim and did not contain the suggestion that I had established that Mr. Comley had never supplied Mr. Fortuna with significant information.

We The People
of the United States, Inc.
Stop Chernobyl Here

IMMEDIATE PRESS RELEASE

DATE: THURSDAY, OCTOBER 12, 1989
TIME: 9:30 A.M.
LOCATION: 1324 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D.C.
PRESS CONTACT: STEPHEN B. COMLEY, EXECUTIVE DIRECTOR
WE THE PEOPLE, INC. OF THE UNITED STATES
508-948-7959 OR 2553

On Thursday, October 12, 1989, Stephen B. Comley, Executive Director of We The People, Inc. an anti-nuclear, fact-finding organization will attend the Oversight Hearing by Congressman Kostmayer on the Actions of NRC Officials in the Agency's Office of Inspector and Auditor (OIA) in its Investigation of Mr. Roger Fortuna, Deputy Director of NRC's Office of Investigations (OI).

Congressman Kostmayer has called on Mr. Roger Fortuna, Deputy Director of the Office of Investigations, NRC; Ms. Sharon Connelly, former Director, Office of Inspector and Auditor, NRC; Mr. Victor Stello, Appointee Assistant Secretary of Defense Programs, Department of Energy Executive Director for Operations, NRC; Judge Alan Rosenthal, former Administrative Law Judge of the NRC as well as others to testify and answer questions.

Comley recently sent letters to Congressman Kostmayer (see enclosed copy) as well as to Congressman Sharp and Secretary of Energy James Watkins in which he outlines his reasons of opposition to the appointment of Victor Stello.

We The People, Inc. headed by Comley, forced Victor Stello to finally admit in May, 1988 that there are tens of thousands of counterfeit substandard components in 59 U. S. nuclear plants in the United States including Seabrook. This was noted again recently in New York Times article 8/4/89 (copy enclosed). Comley also asked publicly for the resignation of Victor Stello in February, 1987 at which time Stello confronted Comley and they exchanged heated words. The NRC contends in their letter to Comley dated August 15, 1988 that they first learned of this troubling information on January 17, 1988. Comley contends this was a lie. They actually knew about this earlier as Comley gave this information to President Reagan on October 26, 1987.

Stello has been involved in a six-month Congressional investigation of slush fund he used to pay former nuclear worker Doug Ellison for incriminating evidence against an NRC inspector. Ellison was paid \$6,000.00 in cash by Stello's staff for testimony which implied that Inspector Roger Fortuna suppressed evidence of problems at a nuclear plant.

OVER

In a court case related to this matter, Stello has forced a subpoena on Comley, as Ellison has stated that Comley allegedly possesses tapes of conversations with Roger Fortuna. Stello wants the alleged tapes and because Comley refuses to comply with the subpoena, has been fined thousands of dollars (\$65,500.00 as of 10/11/89) and faces jail.

Federal District Court Judge Keeton ruled against Comley's argument that the NRC lacks the authority to issue this subpoena. Comley has appealed this decision and oral arguments will be heard on November 9, 1989 in the US Court of Appeals for the First Circuit in Massachusetts.

Stello's handling of the administrative investigation including Comley subpoena has cast a cloud over his White House appointment to a Department of Energy position where he would oversee cleanup of radioactive contamination at nuclear weapons plants.

Comley has charged that the NRC protects nuclear industry profits at the expense of public health and safety. The agency lowered safety standards at nuclear power plants when it discovered that at least half the plants in this country have been built with counterfeit substandard valves, circuit breakers, piping materials and fasteners. Under nuclear industry pressure the NRC withdrew its order that nuclear utilities find and replace the counterfeit substandard defective materials.

Comley said, "In its arrogance, the NRC is not only endangering the safety of the American people, it is bulldozing my rights as an American citizen. In conscience I cannot comply with the agency's unconstitutional order. It is like me being ordered by the court to work with the Mafia after I have witnessed one of their murders. If the NRC gets away with intimidating me, then it will see it can stifle other opponents of its deadly policies." Through Stello's actions, he has proven the avenues which whistleblower groups like We The People, Inc. must provide must remain open and not closed off by the NRC or the courts.

"Now my Constitutional right to due process has also been violated," Comley said. "I'm discovering just how thin our Constitutional protections run when the might of the nuclear industry and its federal bedfellows are challenged," Comley stated.

Comley has joined with many other organizations concerned with nuclear power plant safety to oppose Mr. Stello's appointment to the Department of Energy. "Mr. Stello has shown himself to be a great danger to the American people. His appointment is irresponsible," Comley concluded.

The New York Times

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NEW YORK, FRIDAY, OCTOBER 13, 1989

50 cents beyond 75 miles from N

A-PLANT NOMINEE ADMITS MISTAKES

Ex-Official on Nuclear Panel Says He Delayed Inquiry Into Safety Allegations

By MATTHEW L. WALD
Special to The New York Times

WASHINGTON, Oct. 12 — The former chief of staff of the Nuclear Regulatory Commission acknowledged today that he had kept secret for seven months allegations of drug use and safety problems at a nuclear plant.

The former official, Victor Stello Jr., is President Bush's nominee to take charge of the Energy Department's troubled nuclear weapons complex. He told a Congressional subcommittee today that a technician at the plant who made the allegations also provided information that could implicate another official of the Nuclear Regulatory Commission, Roger Fortuna.

Mr. Stello said he deferred the inquiry into the safety questions because that would have alerted Mr. Fortuna and he wanted the investigation of Mr. Fortuna to proceed in secret.

But the investigation was not secret, because investigators tipped their hands when they sought to question Mr. Fortuna on the allegations only weeks after the technician made them, according to testimony today by other commission officials.

Questions on Stello's Judgment

Mr. Stello agreed with a comment by the chairman of a House Interior subcommittee, Representative Peter H. Kostmayer of Pennsylvania, who said it was a "stupid oversight" not to ask for a prompt investigation of the allegations, which concerned the Nine Mile Point 1 nuclear plant in Oswego, N.Y.

Witnesses repeatedly cast doubt on Mr. Stello's judgment in approving the investigation of Mr. Fortuna, which was an unprecedented procedure for the Nuclear Regulatory Commission that involved a \$6,000 cash payment to the technician, secret meetings in hotel rooms and apparent violations of the commission's handbook on respecting the rights of targets of investigations.

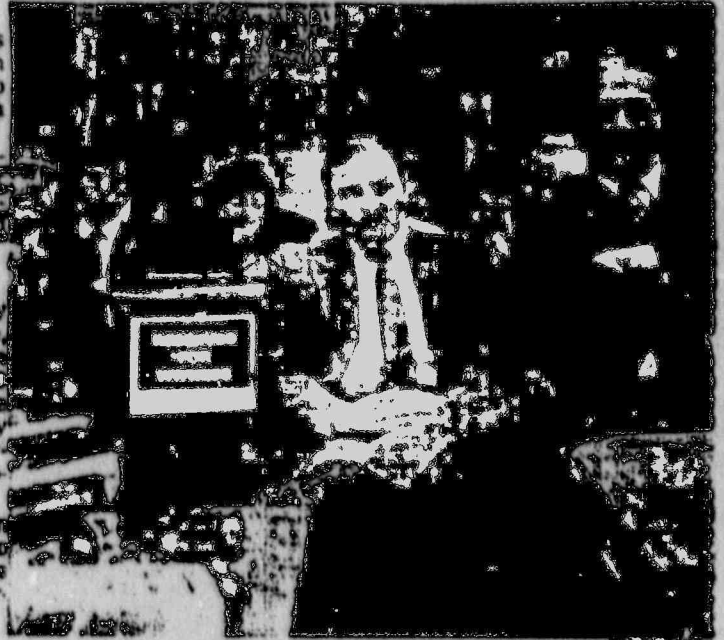
Mr. Kostmayer and others said the reason for the investigation of Mr. Fortuna was a longstanding feud between Mr. Fortuna and a protégé of Mr. Stello's, Sharon Connelly. Several years earlier, Mr. Fortuna had exposed an improper attempt by Mrs. Connelly to shield one of her subordinates from a charge of sexual harassment.

The hearing today is not formally related to the confirmation process for Mr. Stello, but members of the subcommittee said they hoped it would play a role.

Testimony About a Tape

Among the other highlights today was extended discussion of a tape, which the commission received from the informer in exchange for the \$6,000 and which did not appear to implicate Mr. Fortuna after all. A judge hired by the commission to investigate Mr. Fortuna said in testimony that the tape appeared to have been edited.

Despite a spirited exchange between Mr. Kostmayer and Mrs. Connelly, who also appeared as a witness, it was never made clear exactly what Mr. For-



Victor Stello Jr., right, former chief of staff of the Nuclear Regulatory Commission, said he had kept secret for seven months allegations of drug use and safety problems in a New York State reactor. He wanted to testify at hearing with Energy I general counsel of the commission.

NYT - NATIONAL Page A17

tuna was being accused of.

Mrs. Connelly, whose job is to investigate wrongdoing by commission employees, said one focus of the inquiry was Mr. Fortuna's relationship with an anti-nuclear activist in Massachusetts, Stephen J. Comley. The tape in question is of a telephone conversation between the two.

Mr. Fortuna was deputy director of the Office of Investigations, which looks into allegations of wrongdoing at nuclear plants. He has been on leave for seven months and is now assigned to a job in the agency's Freedom of Information Office. Mr. Fortuna said today that he has spent \$60,000 on legal and other expenses, most of it borrowed from his parents.

Mr. Kostmayer said the interim report by the judge found that Mr. Fortuna had used "loose language in the conversation and appeared improperly to give advice to Mr. Comley, who was planning to present evidence to the Jus-

tice Department about falsification of papers in the construction of a reactor at a nuclear plant in New Hampshire.

Mr. Fortuna, who is a former assistant district attorney and prosecutor, said in an interview that Mr. Comley had provided important safety information and that he was cultivating the man as a source.

Also testifying was Ben B. Hayes, the director of the Office of Investigations, who said, "In my 27 years of Government service, I have never seen an investigation as perverted." He praised Mr. Fortuna.

The hearing today follows a report by the Senate Governmental Affairs Committee that also cast doubt on Mr. Stello's judgment. The chairman of that committee, John Glenn, Democrat of Ohio, has not taken a public position on the Stello nomination, although he sits on the Senate Armed Services subcommittee that will take up the matter first.

ALB

Panel Sees Animosity Behind Inquiry on Nuclear Body

By MATTHEW L. WALD

A Senate committee said yesterday that an internal investigation at the Nuclear Regulatory Commission of charges of misconduct by a high-ranking official appeared motivated as much by "personal and professional animosity" as by any legitimate need.

The investigation involved a payment of \$5,000 in cash to an informer, surreptitiously recorded tapes of telephone conversations and commission officials lying to each other, said a report issued by the Senate Government Operations Committee.

The investigation has aroused interest because it was approved by the commission's top staff official, Victor Stello Jr., whom President Bush recently nominated to be head of production at the nation's troubled nuclear weapons complex. Mr. Stello has not been confirmed by the Senate, but he started the job on an acting basis last week.

'Lack of Good Judgment'

Senator John Glenn, an Ohio Democrat who is chairman of the committee, said the investigation showed "an unexcusable lack of good judgment" by high-level staff members at the commission, which oversees civilian nuclear plants.

The investigation under scrutiny was pursued by Sharon R. Connelly, then head of the commission's Office of Inspector and Auditor, against Roger Fortuna, then deputy director of the Office of Investigation.

Two years ago, Mr. Fortuna testified against Mrs. Connelly when she was accused of trying to shield her deputy from charges of sexual harassment.

Late last year Mrs. Connelly, whose office handles the commission's internal investigations, received a complaint about Mr. Fortuna from a former technician at the Nine Mile Point 2 reactor, near Oswego, N.Y.

The former technician, Douglas Ellison, said Mr. Fortuna, whose office is responsible for looking into reactor

The committee said the investigation wasted money.

safety problems, had not adequately handled safety complaints Mr. Ellison had expressed.

Among the panel's findings is that in seeking information derogatory to Mr. Fortuna, Mrs. Connelly asked the agency's top lawyer if she could hire an informant as a "consultant" and pay him for information and tapes of telephone conversations. The lawyer told her that she probably could not unless public health and safety was involved.

Informant's Allegations Limited

Senate investigators later questioned the lawyer, William Parler, the commission's general counsel, and he said that in hindsight he should have urged the commission to subpoena the tapes rather than pay for them, the report said.

The report does not center on Mr. Stello, but it says that he ruled that the informant might have information on reactor safety. The safety allegations the informant provided were so limited, the Senate report said, that "the case could equally be made that this safety rationale were provided a convenient cover to do something that the N.R.C. general counsel had otherwise indicated could not be done — putting someone on the payroll to provide information pertaining to an internal affairs investigation."

A spokesman for the commission, Joseph Fouchard, said that his agency had received the study yesterday and was studying it.

A judge chosen by the commission to investigate has concluded that Mr. Fortuna had acted appropriately in his in-



The New York Times

Victor Stello Jr. as the top-ranking staff official at the Nuclear Regulatory Commission approved a \$6,000 cash payment for an informer in an internal commission investigation.

vestigation of the allegations made by the technician, Mr. Fouchard said.

But the judge is still investigating whether Mr. Fortuna improperly disclosed derogatory information about the informer to an anti-nuclear advocate or received information from the activist that he should have passed on to others at the Nuclear Regulatory Commission.

The activist, Stephen B. Comley, has been subpoenaed and ordered to turn over tapes he might have of conversations between himself and Mr. Fortuna. Mr. Comley of Rowley, Mass., who heads a group, We the People, has refused to testify or provide tapes and

asserted that he receives confidential information from nuclear plant workers and cannot do anything that would damage their confidence in him.

Recently Mr. Comley was fined \$200 a day by a Federal judge in Boston, and the fines could increase to \$1,000 if he does not comply. We the People was instrumental in bringing to light last year the presence of counterfeit parts in nuclear plants around the country.

According to the Senate report, the information that Mr. Fortuna might have disclosed improperly to Mr. Comley was that the former technician had pleaded guilty to attempted sexual abuse of a 13-year-old girl. It is not clear what information Mr. Comley might have given Mr. Fortuna.

In the disputed investigation, Mr. Ellison, the informant, was paid \$6,000 and put up in a hotel near Washington for two weeks while Mrs. Connelly and two other staff members met with him. Mrs. Connelly gave him a code name and arranged her vacation for the time he was there, the report said.

The commission has asserted that Mrs. Connelly wanted to pay him rather than subpoena the tapes because Mr. Ellison had threatened to destroy the tapes. But the Senate report said that there was no evidence for that and that "to the contrary, he was threatening to 'go public.'"

The Senate committee concluded that the investigation was unfair to Mr. Fortuna, violated established principles of internal investigations and should not have so heavily involved top management. The investigation, the committee said, "represented a waste of government funds;" the investigation was "incompetently conducted, punctuated by management intervention and other problems."

"In sum, we found very little reason for the course of conduct of this investigation," the committee said.

Mr. Fouchard said that the commission could not comment further because the matter is still under internal investigation.

THE PARTS ISSUE A COVERUP AND P. REAGAN WAS INV THERE WILL BE NO COLLIE NORTHS IN THIS ONE.

THIS MUST HA BEEN QUITE WEEK.

OVER

I NEVER SAID I WOULD NOT TESTIFY AND THEY WON'T HAVE TO PAY ME. EITHER. I DO NOT LIE.

We The People, Inc.
of the United States
Stop Chernobyl Here

FOR IMMEDIATE RELEASE

MARCH 17, 1988

PRESS CONTACT: STEPHEN B. COMLEY, EXECUTIVE DIRECTOR
617-948-7959

THE NUCLEAR REGULATORY COMMISSION (NRC), IN COLLUSION WITH THE NUCLEAR INDUSTRY, HAS DELIBERATELY ENDANGERED THE PUBLIC'S HEALTH AND SAFETY. THE AGENCY HAS CONSISTENTLY IGNORED OR SUPPRESSED EVIDENCE FROM WE THE PEOPLE AND OTHER SOURCES WHICH PROVES UNSAFE CONDITIONS EXIST AT NUCLEAR POWER PLANTS FROM NEW YORK AND NEW ENGLAND TO THE WEST COAST. 38 PLANTS INVOLVED TO DATE.

RUDOLPH W. GIULIANI, THE U. S. ATTORNEY FOR THE SOUTHERN DISTRICT OF NEW YORK, IS UNDERTAKING AN INVESTIGATION OF THIS SITUATION, BEGINNING WITH THE SHOREHAM, LONG ISLAND, NUCLEAR PLANT. GIULIANI IS BEST KNOWN FOR HIS INVESTIGATION AND SUCCESSFUL PROSECUTION OF IVAN BOESKY.

WE THE PEOPLE HAS CONVEYED SUBSTANTIAL INFORMATION TO GIULIANI REGARDING FALSIFICATION OF NUCLEAR PLANTS SAFETY DOCUMENTS, COLLUSION BETWEEN THE NRC AND NUCLEAR VENDORS SUPPLYING SUBSTANDARD MATERIALS TO NUCLEAR PLANTS, AND INSPECTORS WHO HAVE IGNORED RAMPANT DRUG USE AND SALES AT NUCLEAR PLANTS. WE THE PEOPLE IS MEETING WITH GIULIANI NEXT WEEK TO GIVE HIM MORE INFORMATION ON NRC AND NUCLEAR INDUSTRY CRIMINAL MISCONDUCT.

STEPHEN B. COMLEY, DIRECTOR OF WE THE PEOPLE SAID TODAY, "WE ARE PLEASED THERE IS FINALLY SOME ACTION BEING TAKEN TO REVEAL THE NRC'S COVERUPS. WE ARE HOPEFUL THIS WILL LEAD TO AN INDEPENDENT INVESTIGATION OF THE NRC. THE NUCLEAR INDUSTRY, THE NRC AND YES, SOME POLITICIANS STILL REMAIN DEAF AND BLIND TO THE NEEDS OF THE AMERICAN PEOPLE. WE THE PEOPLE BELIEVE GIULIANI HAS THE ABILITY, THE SENSE AND THE RELENTLESS DETERMINATION IT WILL TAKE TO PROVE THE NRC AND THE NUCLEAR INDUSTRY HAVE DELIBERATELY JEOPARDIZED THE SAFETY OF THE AMERICAN PEOPLE".

WE THE PEOPLE, INC. OF THE UNITED STATES WILL KEEP THE AMERICAN PEOPLE ABREAST OF THE FACTS DURING THE INVESTIGATION THROUGH OUR OFFICES IN ROWLEY, MASS. (MAIN OFFICE), WASHINGTON, D. C. (NATIONAL PRESS BUILDING), CONCORD, N. H., AND PLYMOUTH, MASS. WE ARE CURRENTLY NEGOTIATING FOR OFFICES IN MANHATTAN AND SAN DIEGO, CALIF.

-30-

OVER

The New York Times

The New York Times

Metropolitan News

NEW YORK, NEW JERSEY, CONNECTICUT / FRIDAY, MARCH 18, 1988

Lilco Inquiry By Giuliani Is Reported

2 Suffolk Officials Say Utility Lied to Agencies

By PHILIP S. GUTIS
Special to The New York Times

HAUPPAUGE, L.I., March 17 — Two Suffolk County officials said today that United States Attorney Rudolph W. Giuliani has for the last four months been investigating criminal allegations that the Long Island Lighting Company has repeatedly lied to regulatory commissions and filed false documents with the panels.

The officials also said the investigation by Mr. Giuliani, the United States attorney in Manhattan, also deals with actions by the Federal Nuclear Regulatory Commission.

Suffolk County has filed a civil suit against Lilco, charging it with fraud in seeking rate increases to pay for its Shoreham nuclear plant. Several of the county's witnesses, speaking on the condition they not be identified, said today that they had been questioned by members of Mr. Giuliani's staff.

Although it remained unclear what Mr. Giuliani would be investigating concerning the nuclear commission, the person close to the investigation, who asked not to be identified, said a committee of officials had gone to New York to give Mr. Giuliani's staff documents about what the official commission had filed with the commission.

A Lilco spokesman, James E. Ellis, said the utility has "no knowledge of any criminal investigations concerning Lilco." The Federal nuclear commission, said a spokesman, John Kopeck, would have no comment. Corley, a spokeswoman for Mr. Giuliani, said, "The policy of this office is not to comment whether there is or is not any ongoing investigation."

The Suffolk officials — County Legisla...

Lilco Said to Be Target of Inquiry In Criminal Case

Continued From Page B1

Wayne Prospect and Gregory J. Blass — told a news conference today that four months ago they decided that the evidence accumulated by the county's investigators "was of such magnitude as to warrant the attention of a Government prosecutor."

Mr. Prospect and Mr. Blass said they had arranged a meeting with Mr. Giuliani, who, they said, "was extremely interested in what we had to say."

Since then, Mr. Prospect said, the prosecutor's office has "enthusiastically and vigorously" pursued an investigation, reviewing the county's documentary evidence and interviewing several of its witnesses.

Withstanding an Earthquake

Suffolk County, in a suit filed last year, said it had assembled documents that show Lilco's officers often misrepresented how quickly and at what cost, they could complete Shoreham as they sought special rate increases from the state's Public Service Commission.

The county also charges that Lilco had falsified a report on Shoreham's ability to withstand an earthquake. In its suit, the county charges that Lilco and the Stone & Webster Engineering Corporation, Lilco's construction manager for Shoreham, had altered a study and filed the report with the nuclear commission.

Both charges have been emphatically and repeatedly denied by Lilco.

With no confirmation from Mr. Giuliani's office, today's comments from Mr. Prospect and Mr. Blass were met with uncertainty and skepticism. Lilco, for example, said it was "confused as to why they would be the ones to make such an announcement."

Impact on Negotiations

"We find it curious that if there was an investigation," said Mr. Lois, Lilco's spokesman, "that Mr. Prospect, a Suffolk County legislator, now makes the investigation public and not the Federal prosecutor or the Suffolk County's District Attorney's office."

It was also unclear how the county's announcement would affect the negotiations between the state and Lilco or the deliberations by the Long Island Power Authority, the state agency considering a takeover of the utility.

"We are quite puzzled by Wayne's announcement," said Vincent Tusa, the president of the state's Urban Development Corporation and Governor Cuomo's chief representative to the talks with Lilco.

"We are trying to ascertain if there is an active investigation underway," Mr. Tusa said. "But if there is an active investigation, the power authority would have to take a long, hard look at it and so do we."

Seeking to Recover Revenue

Mr. Prospect said he had decided to announce Mr. Giuliani's involvement because he felt it was time the public knew the company was under investigation.

Andrew J. Maloney, the United States Attorney in Brooklyn, responded angrily to Mr. Prospect's announcement. "We are aware of Mr. Prospect's

WAYNE PROSPECT'S
OFFICE WILL CONFIL
THIS

THIS IS WE THE PEOPLE

we the people
of the United States
Stop Chernobyl Here

July 18, 1988

Mr. Victor Stello, Jr.
Executive Director for Operations
United States Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Stello:

I'm writing to you with regard to NRC Bulletin No. 88-05, dated May 6, 1988, concerning the "nonconforming materials" supplied by certain piping supply companies.

Although the NRC has identified a potential problem in at least 38 plants, it appears that this matter is still under investigation by the Agency. Obviously, it would be premature for me to comment on the Agency's investigation until such time as it has made some or all of its findings public. Given the NRC's conclusion that "potential generic safety implications" exist at the plants identified, and possibly others, it is hoped that the Agency will vigorously pursue this matter with all resources at its disposal.

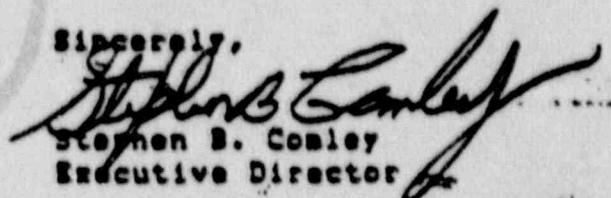
I do believe, however, that the revelations in NRC Bulletin No. 88-05 raise a serious question that need not await the outcome of the Agency's investigation to warrant a response. That question regards when knowledge of these potential safety problems was first brought to the attention of the NRC and what actions were taken as a result and, finally, when those actions were taken.

I am sure it will come as no surprise to you that the public has less than 100 percent confidence in the NRC. I believe that you are now provided with a unique opportunity to reinstall public confidence in the wake of these revelations. First, that confidence may be restored by conducting a thorough investigation of the situation and promptly taking any and all necessary corrective actions. Second, I believe you should disclose to the public when these concerns first came to your attention and what actions you took with regard to the information.

I look forward to your response.

880823016
JP

Sincerely,


Stephen B. Conley
Executive Director



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

AUG 15 1988

Mr. Stephen B. Comley, Executive Director
We the People of the United States
Box 277
Rowley, Massachusetts 01969

Dear Mr. Comley:

Your letter of July 18, 1988, requested information concerning NRC Bulletin No. 88-05, "Nonconforming Materials Supplied by Piping Supplies, Inc. (PSI) at Folsom, New Jersey, and West Jersey Manufacturing Company (WJM) at Williamstown, New Jersey." You asked when knowledge of these potential safety problems was first brought to the attention of the NRC, what actions were taken as a result, and when those actions were taken.

The issue was first brought to the NRC's attention during the week of ^{*}January 17, 1988, by a telephone call from a material supplier. Later that week, personnel from NRC's Vendor Inspection Branch conducted an inspection at Piping Supplies, Inc. On February 24, 1988, NRC subpoenaed documents from PSI and WJM and began an intensive record review. On May 6, 1988, NRC issued Bulletin No. 88-05 and on June 15, 1988, NRC issued Supplement 1 to the bulletin. Bulletin 88-05 requires licensees to review their records for procurements from PSI and WJM and to conduct tests of any procured materials. NRC allowed continued operation of nuclear power plants during the record review and testing period because components designed to the ASME code and ANSI B31.1 standard have inherent margins of 3 to 4 times design loads. Also, piping systems in which nonconforming materials may have been installed are required to be hydrostatically tested at 1.25 to 1.50 times design pressures which provides additional assurance of the structural integrity of these systems. Preliminary safety analyses of available data indicates no immediate safety concerns.

So far, licensees have conducted in situ hardness tests on over 1300 pieces of the suspect material and destructive tests of about 60 samples. Engineering analyses have been performed to demonstrate that material that does not meet certain hardness values is still acceptable for its application in nuclear power plants. All these activities by the industry are being coordinated by the Nuclear Management and Resources Council (NUMARC). In a letter dated July 25, 1988, NUMARC stated that the results of these activities demonstrate that there is no public health and safety concern. On August 3, 1988, NRC issued Supplement 2 to Bulletin 88-05, temporarily suspending the requirements of Bulletin 88-05 and Supplement 1 for operating plants while the available data is being assessed. After completing the review, NRC will decide whether the requirements should be reinstated or whether other actions are warranted.

Sincerely,

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

* THIS IS NOT TRUE.
THEY KNEW ABOUT
IT PREVIOUSLY.

8803236110
ψ

LIFE MEMBER



Mr. Stephen B. Comley,

You have earned the distinction of Life Membership and the right to stand shoulder to shoulder with President Reagan in this exclusive club.

John Mc...

Ronald Reagan

of the United States

Stop Chernobyl Here

**IF REAGAN SEES ME, IT WILL HELP BRING
THE TRUTH OUT.**

August 15, 1988

President Ronald Reagan
The White House
1600 Pennsylvania Ave.
Washington, D. C.

**SEE NOTE ON
2ND PAGE**

Dear Mr. President:

I am writing to you as a lifetime member of the Presidential Task Force and Inner Circle. I have written to you in the past on the matter of nuclear power in this country, and have sent you information on safety problems in the industry. I have also sent you information on the Nuclear Regulatory Commission's inability to regulate nuclear power plants adequately. A recent General Accounting Office report (enclosed) substantiates the belief of the people of the Town of Rowley, Massachusetts, that the NRC does not always properly investigate problems with nuclear plants and poor practices within the agency itself. Two years ago, 80% of Rowley signed a petition (enclosed) asking you to undertake an investigation of the NRC's practices. The people of Rowley are still waiting for an acknowledgment of their request.

I am the owner and administrator of Sea View Nursing Home in Rowley, Massachusetts which lies just outside the Emergency Preparedness Zone for the Seabrook, New Hampshire, Nuclear Power Plant. I fully agree with the State of Massachusetts' conclusion that the population could not be evacuated in the event of a serious nuclear accident at the plant. I am also the Executive Director of We The People Inc. of the United States which is a non-profit organization established to educate the American public about nuclear power.

Several years ago, regarding the Shoreham, New York, nuclear plant, you said you would not interfere with the state's powers to decide if evacuation is possible in case of a nuclear accident. (enclosed) Now you are considering signing an executive order which would take that power away from the state of Massachusetts for the communities near the Seabrook, New Hampshire, nuclear plant. I strongly urge you to avoid signing such an order.

Apart from the fact that evacuation of those communities is impossible, there are serious safety matters at Seabrook Station still under investigation by the NRC and others. One is the strong possibility that substandard piping fixtures were built into the plant (see enclosed documentation-NRC bulletin No. 88-05, May 6, 1988), such piping in the safety system compromises the health and safety of the public. These piping fixtures are currently failing testing and could result in a serious accident at any of the 38 plants involved.

Another problem under investigation at Seabrook Station is the inspection of important safety systems by an unqualified inspector. (enclosed) Despite knowledge of the plant builders that this inspector did not have the proper credentials to perform the work, he was allowed to act in an inspectors' capacity for a year.

Another problem, also common to military equipment, is substandard bolts which become malleable or shear off under stress. Although the NRC claims that the utilities' inspection proves that these "counterfeit" bolts are not built into Seabrook Station, the inspection was very cursory and incomplete.

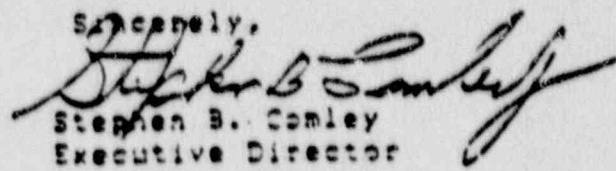
For reasons of safety, and also to uphold the idea that the federal government should not interfere in powers reserved to the states, I urge you to forego the executive order which would undermine Massachusetts' determination that evacuation around the Seabrook nuclear plant is impossible.

Last October 26, at the gala event for you hosted by the Inner Circle, I gave you a letter (copy of letter enclosed) with information and asked you to meet with me. I was trying to convey to you information we had about substandard materials, information which was not widely known at the time. I would still like to meet with you because there is additional information available other than what has now been provided, and more will be forthcoming. Like the problem of the substandard equipment, the NRC also has the information we have about nuclear plant problems, but is doing nothing about it, except perhaps to cover it up. Lastly, the NRC people that we have been working with for the past two years are willing to meet with you privately to inform you of the corruption which has deliberately jeopardized the safety of the American people. These violations, I have been told, are just the soft underbelly of the nuclear industry and the NRC.

I am sure you can understand the concern of these individuals over the consequences of coming forward and, I am sure you can understand that these individuals will only come forward if there are some reasonable assurances that a full and fair investigation will ensue.

I strongly believe that a full and fair investigation will uncover one of the biggest violations of the public trust this country has experienced. It is clear that, at this point in time, a large segment, if not a vast majority, of the American people have lost confidence in the ability of the Nuclear Regulatory Commission to protect their interest in health and safety over the financial interests of the large utility companies. An impartial investigation of the NRC will be a step toward restoring the confidence of the public in its government.

I know you have to be concerned about these matters, and I want to thank you for your consideration of them. Please let me know when it would be convenient for us to meet.

Sincerely,

Stephen B. Comley
Executive Director

Enc: GAO report, Rowley Petition,
Shoreham comment, NRC Bulletin 88-15,
Seabrook Allegations, Letter of Oct. 26, 1987



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20545

OCT 04 1988

Mr. Stephen B. Comley
Executive Director
We The People of the United States
Box 277
Rowley, Massachusetts 01969

Dear Mr. Comley:

Your letter of August 15, 1988, to President Ronald Reagan expressing your concerns regarding Seabrook Station has been referred to me for response.

I share your concern about the potential use of substandard piping fixtures at nuclear power facilities. Therefore, NRC issued NRC Bulletin No. 88-05 and Supplements 1 and 2 thereto (copies enclosed) to inform applicants and licensees of this potential problem. The Seabrook Station licensee reviewed the Seabrook Station construction records in accordance with the requirements of the bulletin and supplements and determined that 369 suspect fixtures were installed in the Seabrook Unit 1 plant. A report of the licensee's review was submitted to NRC on August 25, 1988, and is currently being reviewed by the NRC staff. The applicant must demonstrate to the satisfaction of the NRC staff that all of these suspect fixtures provide an acceptable level of quality and safety.

A second concern expressed in your letter was that an unqualified inspector had been used at Seabrook Station. An Authorized Nuclear Inspector (ANI) trainee was assigned to the Seabrook Station from May to December 1985. The NRC review determined that the ANI trainee performed assignments in accordance with his assigned training program and that qualified ANIs had evaluated and monitored his training, progress, and inspection work. The NRC concluded that there was neither a noncompliance with the American Society of Mechanical Engineers Code nor evidence of wrongdoing.

You also expressed a concern regarding the thoroughness of the licensee's inspection to determine that "counterfeit" bolts were not built into Seabrook Station. The licensee's initial inspection, performed in response to NRC Bulletin No. 87-02 (copy enclosed), determined that the fasteners used in Seabrook Station were acceptable. After that initial inspection, NRC issued Supplements 1 and 2 (copies enclosed) to NRC Bulletin No. 87-02. These supplements requested and then clarified the request for additional information on the suppliers and manufacturers from whom the subject fasteners may have been purchased. The NRC reviewed the information submitted by the Seabrook Station licensee in response to Supplements 1 and 2 to NRC Bulletin No. 87-02 and concluded that the actions taken by the licensee were both complete and adequate and that the fasteners installed in Seabrook Station are acceptable for their intended uses.

Thank you for your interest in these matters.

Sincerely,

Frank J. Miraglia

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

88 0823 0395

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THE DAILY NEW

Newburyport, Massachusetts

100th Anniversary/1887-1987

25 cents /

Sunday, October 27, 1987 / 02 Pages

N-plant foe says he gave flag to Reagan

WASHINGTON (AP) — A crusader against the Seabrook nuclear power plant says he got a brief opportunity to press his case directly with President Reagan.

Stephen Comley of Rowley, Mass., said Monday that he handed an anti-Seabrook letter and banner to Reagan at a Republican fund-raising event. National Republican Senatorial Committee Chairman Jesse Helms also attended the event and Comley said he did not see the outcome of the White House event, which would not continue in the morning.

Comley said he unfurled a banner that read: "We the People — 200th Anniversary of the Constitution — 1787 to 1987" while Reagan spoke to the Republican Senatorial Inner Circle, a group of 5,000 contributors. "We the People" is the name of Comley's organization.

According to Comley, the president spotted him and after the speech asked, "Is that for me?"

Reagan then motioned him to come forward, Comley said.

Comley said Reagan put the flag under his arm and took a letter from the activist.

The event was closed to the public and press, Comley said he is a member of the contributors' club.

In the letter, Comley said he could prove that the Nuclear Regulatory Commission is biased for

for nuclear industry interests who are blocking the lives of millions of Americans in Newburyport.

Comley, who lives about 12 miles from Seabrook, disrupted a Seabrook hearing last week in New Hampshire. Last year, he was arrested after disrupting the inauguration of New Hampshire Gov. John Sununu, a Seabrook proponent.

THIS INCIDENT
WAS PROVOKED
BY SUNUNU'S
OWN STAFF

Boston Herald

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Saturday, December 88

IF THEY ARE FAILING AT SEABROOK, THEY ARE FAILING ACROSS THE COUNTRY.

Seabrook pipes OK'd by NRC fail inspection

CONCORD, N.H. — Though it initially reported no problems and Nuclear Regulatory Commission inspectors at first closed the matter, the Seabrook nuclear plant has had to replace two safety-related pipe flanges that did not meet federal standards, officials said yesterday.

supplier had falsified test reports and could not prove the materials met engineering standards.

Seabrook told the NRC that all its materials met American Society of Mechanical Engineers standards, and commission inspectors closed the matter. A Seabrook spokesman also said in August that the plant had found all of its piping material to be up to par.

But on Sept. 20, the inspectors called plant officials and asked for further tests, accord-

ing to an NRC inspection report released this week that repeated the charges.

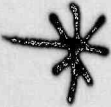
"They wanted a chemical analysis that they did not ask for in (the bulletin)," Seabrook spokesman Sean O'Neill said yesterday.

After an independent laboratory chemically analyzed the pipe from the flange, the NRC's Peter said, "The officials notified the NRC on Oct. 14 that 'two blind flanges in the service water system require replacement.'"

THIS HAS BEEN UPDATED TO 59 PLANTS.

Seabrook officials tested piping material at the plant after the NRC issued a bulletin in May warning 38 plants nationwide that a New Jersey

ON MAY 6, 1988, THE NRC RELEASED A BULLETIN SAYING 38 NUCLEAR UTILITIES INCLUDING SEABROOK STATION AND THE PILGRIM NUCLEAR PLANT MUST SELF-INSPECT PIPING INSTALLED SINCE 1976 TO SEE IF ANY OF THE PIPING IN THE SAFETY SYSTEMS IS SUBSTANDARD. (SEE PAGE 8 OF THIS PACKET.) THIS MEMO CONFIRMS OUR ALLEGATIONS RELEASED ON MARCH 17, 1988. (SEE ENCLOSED PRESS RELEASE, PAGE 10 OF THIS PACKET). WE THE PEOPLE BELIEVE THAT THE ONLY REASON THE NRC RELEASED THIS MEMO TO THE INDUSTRY WAS BECAUSE THEY KNEW THE WORD WAS OUT. THIS IS AN EFFORT TO MAKE THE NRC LOOK RESPONSIBLE. THE KEY QUESTION WE THE PEOPLE ASKED MR. STEFLO AND MR. ZECH IS WHEN DID THEY FIRST LEARN OF THESE ALLEGATIONS? THEY ANSWERED AND SAID IT WAS JANUARY 17, 1988. (SEE PAGE 6 OF THIS PACKET). THE AGENCY ACTUALLY KNEW EARLIER THAN THAT DATE.



The Boston Globe

THURSDAY, AUGUST 18, 1988

*35 c. / 10¢ at newsstands beyond 20¢

REPUBLICAN 88 CONVENTION



The talk of New Orleans

Not a banner night

■ Stephen Comley, a Rowley, Mass., nursing home operator who claims to have spent more than \$200,000 in his battle against nuclear power, unsuccessfully sought permission to have a banner towed over the Superdome Tuesday night with the message: "Hey, George, Stop Chernobyl here." "I didn't know there was a law against freedom of speech in this country," Comley said. Although Comley was denied air space, he busily distributed bumper stickers, signs and news releases. He also said he hoisted a "Stop Chernobyl" sign during Tuesday's convention address by New Hampshire Gov. John Sununu.

Don't pass him by

■ As the delegates to the Republican National Convention streamed out of the Superdome Tuesday night, they encountered an energetic young man on a mission. "Please!" Jack Lack shouted to stunned delegates. "Anybody who has passes for tonight! Gov. Sununu of New England is asking for them for souvenirs!" Lack said he is a volunteer from Ohio who had been asked by the Republican National Committee to assist the New England delegation. And after Sununu delivered his address to the convention, the governor asked him to collect the passes. Lack said. Finished with his tale, Lack returned to his task. "Please! Anybody who has passes for tonight..."

over

'THE DAILY NEWS'

Newburyport, Massachusetts

v. August 19, 1988 / 60 Pages

Bush, Quayle 'mean to win



George Bush, surrounded by family and running mate, spreads his arms out after accepting his party's nomination. ASSOCIATED PRESS PHOTO

Anti-Seabrook banner grounded

By PAMELA GLASS
Ottaway News Service

NEW ORLEANS - Anti-nuclear activist Stephen Comley lost his bid to bring his anti-Seabrook battle to the Republican National Convention Wednesday when he was denied permission to fly a banner over the Superdome.

Comley, operator of a nursing home in Rowley, said the reason seems to be a miscommunication between the pilot of the plane and security people who set

strict rules on airspace around the dome.

At first Comley was told the banner could only fly five miles from the Superdome, site of the convention. That was unacceptable, Comley said, because "it would have put us in the swamp with the snakes and alligators."

"Then I was told we could do it within a mile-and-one-half," he said. "But by the time we straightened this out it was too late."

Instead, Comley passed out bumper stickers, signs and news releases with the message: "Hey George, Stop Cherno-

by! Here." He also put signs beside the state flags in the Superdome of New Hampshire and Indiana, home of vice presidential nominee Daniel Quayle.

Comley said "nuclear power is the most important issue in the country and our leaders should start telling the truth about nuclear power."

Comley, who has flown banners over the state capitols in Boston and Concord, N.H., said he was upset he couldn't do it in New Orleans.

"I didn't think there was a law against freedom of speech in this country," he said.

CONCORD

Concord, New Hampshire

180th Year, No. 289



MONITOR

50 Pages — 35¢

Wednesday, December 9, 1987

Anti-Nuclear Protester

WASHINGTON (AP) — Seabrook protester Stephen Comley is furious because the federal government won't let him fly an airplane towing a banner during the summit.

The restriction was imposed "for a variety of reasons — safety, security, that sort of thing," said Dick Stafford, a spokesman for the Federal Aviation Administration.

The order bars planes carrying banners from flying in the so-called terminal control area of National Airport, a zone described by Stafford as roughly seven miles in radius from the airport. The agency also is prohibiting photo-taking excursions over Washington during the summit, he said.

Stafford said the restriction would be lifted when the summit ends.

"I don't think we're setting too good an example to the Russian people that we're willing to stop freedom of speech in this country."

Stephen Comley

The has infuriated Comley, who paid \$1,000 for a banner and plans to fly over Lincoln Park in a residential section of Capitol Hill on Mon-

Grounded During Summit

day afternoon.

"It's ridiculous," said Comley, who owns a nursing home in Rowley, Mass. "Now they're putting a gag on freedom of speech."

"I don't think we're setting too good an example to the Russian people that we're willing to stop freedom of speech in this country."

In the past, Comley has hired airplanes to carry banners over the New Hampshire State House protesting Seabrook, Gov. John Sununu and the Nuclear Regulatory Commission.

Stafford denied Comley's assertion that the ban was to avoid potentially embarrassing aerial demonstrations while Soviet leader Mikhail Gorbachev was in town.

"We're doing it for security reasons," he said, declining to elaborate. Stafford said simi-

lar restrictions have been imposed in the past during other major Washington events, but he could not cite an example.

Certain Washington airspace is always prohibited from flights, but the summit ban applies to unrestricted areas like Lincoln Park. Commercial aircraft without banners are allowed in the traditionally unrestricted airspace during the summit, Stafford said.

Comley is founder of "We The People Inc.," an anti-nuclear group that has focused its opposition on the Seabrook.

Comley said he had planned to fly a banner over the park, located between the Capitol and RFK Memorial Stadium. The banner read: "Mr. Gorbachev, Help Us Stop Chernobyl Here — We The People."



Comley paid \$1,000 for a plane he can't fly over Washington.

The Hampton Union

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4 Sections, 40 Pages

Friday, October 6, 1989

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Sign photo Gary J. Cashmore

Making a statement

A billboard near Interstate 95 makes its anti-Seabrook Station message clear. Nuclear plant officials dismiss the message as false advertising. See story on page 5.

Anti-nuke billboard unveiled

By Gregory Bergman
Staff Reporter

SALISBURY, Mass. — When Steve Comley started his protest against Seabrook Station, his first act was to hand deliver a note to former President Ronald Reagan describing the Rowley, Mass., resident's stand.

From there, he developed antics that included airplanes flying near the White House and the Nuclear Regulatory Commission offices trailing a banner noting for the respective officials to "see me."

Comley's latest stunt against

Seabrook is the placement of a 12-by-30-foot billboard that can be seen from Interstate 95. The sign proclaims the area to be a "Seabrook Nuclear Zone" where "No Evacuation Possible."

The sign, according to Comley, represents a "warning" to people traveling into a "radioactive danger zone."

"Many people going to those beaches are unaware that a serious radioactive accident at Seabrook Station would trap them there," said Comley Wednesday during the

billboard's unveiling ceremonies.

Chris Peters, owner of the Hi Way Shop on Route 1, who provided the billboard space to Comley, said he did it because "we must alert people before it is too late."

The impassioned owner of Rowley Nursing home got involved fighting the Seabrook after he said he learned bedridden elderly patients within the power plant's 10-mile evacuation zone would be left behind during any evacuation.

Seabrook officials dismissed the sign as false advertising.

THE DAILY NEWS

Newburyport, Massachusetts

Wednesday, December 27, 1989 / 28 Pages

35 cents \$1.70 home-delivered

State eases anti-sign stance

ACLU argues Comley's evacuation billboard permitted

SALISBURY - An anti-nuclear billboard along Route 95 was granted a reprieve last week by state officials who previously sought its removal.

Rowley nursing home owner Stephen Comley erected the sign, which denounces Seabrook nu-

clear power plant evacuation plans, on the former Marigold function hall property owned by Chris Peters.

In October, the state Outdoor Advertising Board said the sign violates a roadside advertising law and ordered its removal.

Comley said yesterday he received word the board had changed its stand in response to arguments filed by Massachusetts Civil Liberties Union attorney John Reinstein.

Reinstein had said the sign advertises the views of We the Peo-

ple Inc., an organization set up by Comley, which has Peters' permission to use the property.

Therefore, Reinstein argued successfully that the sign falls within an exemption in the law that allows advertising as an on-premises use of property.

SCHEDULED ON JANUARY 1, 1990,
WE WILL HAVE 2 MORE BOARDS GOING UP IN
MASSACHUSETTS; ON ROUTE 1 NORTH AFTER THE MERRIMAC
RIVER BRIDGE AND ON ROUTE 110 IN SALISBURY. ONE MORE
BOARD WILL ALSO BE GOING UP ON ROUTE 1 JUST BEYOND THE
PLANT'S NORTH GATE AT THE SEABROOK/HAMPTON LINE.
SEE ENCLOSED LETTER EXPLAINING LOCATIONS.



Nuclear Information and Resource Service

1424 16th Street, N.W., Suite 601, Washington, D.C. 20036 (202) 328-0002

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* Organizations listed for identification only

December 1, 1989

Dear Friend:

Anti-Seabrook activist Steve Comley is well known for his ability to bring attention to an issue. Recently, Steve put up a billboard at the entrance to the Seabrook evacuation zone, a billboard that turned out to be more controversial than even he thought (see enclosed article). Although Massachusetts tried to force down the sign last month, the state's Civil Liberties Union stepped in, and the sign is still standing today.

Now Steve wants to do to the NRC what he's done to Seabrook. He wants to put up billboards all across the country to bring attention to the agency's corruption and to the need for a congressional investigation of the NRC.

He would like your help. He's willing to print the billboards, but obviously he can't put them up everywhere by himself. Are there billboard sites near you that you think would be a good place for such a billboard? Would your group be willing to rent the billboard space for a month or so, if Steve supplied the sign? Would you be willing to work in a coordinated effort (i.e. have billboards go up across the country on the same day or week, in order to obtain media coverage)?

Steve suggests the billboard say: CONGRESS: Protect U.S. Democracy; Investigate the NRC.

It sounds like a good idea to us. If you'd like more information about these ideas, contact Steve directly, at We the People, Box 277, Rowley, MA 01969, 508-948-7959; fax: 508-948-7377.

Best wishes,

Michael Mariotte
Executive Director

dedicated to a sound non-nuclear energy policy

BILLBOARD BRIGADE WANTS CONGRESSIONAL PROBE OF NRC WRONGDOING

The Nuclear Information & Resource Service—a grassroots, antinuclear organization—is asking its members to help finance a campaign to dot the country with billboards calling on Congress to investigate alleged wrongdoing by the NRC.

The billboard campaign builds on flamboyant antinuclear activist Stephen Comley's latest publicity stunt. Comley, a vocal critic of the Seabrook nuclear plant and NRC policies, recently erected a billboard on private land in Salisbury, Mass., just outside the Seabrook emergency evacuation zone. The billboard reads: "Danger, Seabrook nuclear zone; no evacuation possible."

Arguing that the billboard violates regulations, the Massachusetts Outdoor Advertising Board tried to get the sign removed, but when the Massachusetts Civil Liberties Union objected, the advertising board decided to take another look to determine whether the sign—on private land—is exempt. As of last week, the sign was still standing.

In a recent letter to members, NIRS executive director, Michael Mariotte, said Comley would, in essence, split the cost of the nationwide billboard campaign. "He's willing to print the billboards, but obviously he can't put them up everywhere by himself," Mariotte said. "Are there billboard sites near you that you think would be a good place for such a billboard? Would your group be willing to rent the billboard space for a month or so, if Steve supplied the sign?"

Comley suggests the new billboards read: "Congress: Protect U.S. Democracy; Investigate the NRC." NIRS directed all interested parties to contact Comley's We the People organization. Comley said last week that antinuclear groups in his area and in Pennsylvania had shown interest in the campaign, but "nothing has been confirmed as yet. It takes time."

Comley is also a central figure in NRC's year-long probe of Roger Fortuna, the suspended deputy director of NRC's Office of Investigations (see related story elsewhere in this issue). Among his many publicity generating stunts, Comley hired a biplane to buzz the Republican National Convention site in 1988. The plane trailed a giant-sized banner urging the public to "Stop Chernobyl Here" by joining the fight against nuclear power. He has called for the ouster of former NRC Executive Director for Operations Victor Stello and once offered the NRC commissioners copies of the U.S. Constitution. "I want to give these to the commission as a gift," he said. "I really think you ought to read it because you apparently haven't ever read it before."—*Dave Airoso, Washington*

COMMISSION UNANIMOUSLY PICKS TAYLOR FOR EXECUTIVE DIRECTOR POST

James Taylor has been named NRC executive director for operations, replacing Victor Stello, who has moved on to DOE.

Announcing the appointment December 1, NRC Chairman Kenneth Carr praised Taylor for the "outstanding" work he has done "in every position he has held" at NRC. "He has a broad technical background, a thorough knowledge of the NRC and its responsibilities, and the unanimous support of the commission," Carr said.

The day before the announcement, Carr told Inside N.R.C. he had not spoken with the other commissioners about the EDO post, and added that he had no timetable for making a decision. "We work in our own good time over here," Carr said. The next afternoon, the commissioners chose Taylor (INRC, 4 Dec., 8).

Taylor joined NRC in May 1980. Three years later he was named deputy director of the Office of Inspection & Enforcement, and in 1985, director of that office. Since July, he had pulled double duty, serving as deputy director for regional operations and acting EDO.

Stello—the Bush administration's embattled nominee to be DOE assistant secretary for defense programs—was "detailed" to DOE in late July, just three days after his nomination to the DOE post was made official. Last month, with his detail coming to an end and his confirmation for the DOE post stalled on Capitol Hill, Stello accepted appointment to a lesser post, the "principal deputy assistant secretary" for DOE's defense programs, a job that does not require Senate confirmation. The move, at least temporarily, sidestepped congressional opposition to his appointment as DOE assistant secretary for defense programs.

The Senate Armed Services Committee will hold additional hearings on Stello's nomination later this month and is expected to act expeditiously on the nomination when Congress reconvenes in January.

Prior to joining NRC, Taylor served with the Office of Naval Reactors as associate director of the DOE's high speed submarine projects. Before that, he served 20 years as an engineering duty officer in the nuclear Navy. Taylor graduated from the Naval Academy in 1956 and earned a master of science and engineering degree from the Massachusetts Institute of Technology in 1961.

OUR
MERRY
CHRISTMAS
CARD TO THE
NRC

THE WASHINGTON POST INDEX

MARY McGRORY

Fighting for Survival of the Unfit

Steven Comley, a stocky, unblinking man from Rowley, Mass., is hardly of the Clark Clifford school of lobbying. suave he is not. He barges into government offices and says, "Why the hell . . ." He does not see establishing friendly relations as a measure of success. "I made him mad as hell," he reports about a congressional aide whom he was trying to persuade to investigate the Nuclear Regulatory Commission.

He deals as brusquely with the press. When he fails to persuade a reporter to cover one of his initiatives, he says, "Oh, sure, you'll wait until there are 800,000 dead, then you'll go for it."

Ever since Chernobyl launched him—"like an unguided missile," a friend says—he has been charging about in a solo effort to stop the opening of Seabrook, the nuclear power plant that lies 12 miles from the nursing home he owns and operates in Rowley. First he raged the town of 4,000, lining up 1,400 residents to sign a petition to Gov. Michael S. Dukakis (D) demanding that Rowley be included in evacuation plans being drawn up in the event of a Seabrook accident. Then he went to the State House in Boston to badger Dukakis in person not to okay the plans—a move that would effectively keep Seabrook inoperative.

While his wife runs Sea View, Comley darts in and out of Washington. He haunts the offices of the NRC and peppers the commissioners with letters. He had an interview with the newest appointee, James K. Asseltine, during which Asseltine conceded that the commission "acted more as the protector of the industry than the protector of the public."

Like every other Washington petitioner, Comley wants to see the president. A registered independent, he has voted for and contributed to Ronald Reagan, and he thinks that if he could sit down with him, the president would "have" to stop Seabrook.

He's had no luck, so he's taking his plea aloft again. Comley, a skydiver, believes in overflights. He has hired planes to fly over Boston to goad Dukakis, and over Concord, N.H., to disparage Gov. John H. Sununu (R), who is fending off a vigorous reelection challenge from anti-Seabrook elements. The president may soon see a streamer up in the clouds that says, "Mr. President, See Me, Comley."

Comley pays for all this activity with his own money. Sea View is a small—"that's why it's so good"—nursing

home, where the residents do a lot of flower-growing and bird-watching. He has spent \$12,000 to \$15,000 and is ready to spend more because he's "so ashamed I didn't get involved before."

"A lot of people call me a nut," he volunteers.

If he is, he could scarcely be more off-the-wall than the evacuation proposals he is protesting. In the wake of Chernobyl, Sununu engaged a distinguished scientific panel, including two Nobel laureates, to advise him about the safety of Seabrook. They have assured him that in terms of construction operation and what they prefer to call "the emergency response plan," things could not be better.

"What's he tellin' us," snorts Comley. "They have human error at Three Mile Island and in Russia, but they don't have it in New Hampshire!"

The 17 towns in New Hampshire and the six in Massachusetts within a 10-mile radius of the nuclear plant all have draft plans, and the same bright thread of lunacy runs through them. Parents are, for instance, instructed not to try to retrieve their children from school if the sirens go off. Their young will be taken to other towns by bus.

Comley's two sons attend a regional high school in Peabody that is within the 10-mile radius and so would be under the orders of the Emergency Operations Center, which presently has no jurisdiction in Rowley.

Tom Moughan, coordinator of Citizens Within the Ten-Mile Radius, points out that some drafts call for the dispatch of city buses from Boston, some 40 miles away, to pick up stragglers and people without cars. There is talk of having careless people put ribbons on their doorknobs. But since the buses—provided enough drivers can be found to head into the fallout—will ply only certain routes, residents of side streets will have to run to the corner and, as Moughan says, "hope that the bus will get them before the radiation does."

What keeps Comley going at his headlong pace are the plans for nursing home and hospital patients, "which," as the Newburyport draft says, "cannot be moved."

The Darwinian instructions advise shutting doors, windows and outside air vents, and "moving patients/residents to inner room/hallways if possible."

"What the hell kind of a way is that to treat your mother or your grandfather?" asks Comley. None of the smart people he is pestering has answered him yet.

Zzzzip It

A Liberal Has His Day on 'The Morton Downey Jr. Show'

By Al Giordano
Special to The Washington Post

"Oh God, I'm so embarrassed," my sweetheart exclaimed, covering her eyes with her hands, when I announced that I was going to be a guest on "The Morton Downey Jr. Show" to argue against nuclear power.

"You must be crazy," another friend said. "He'll eat a Massachusetts liberal like you alive."

Seeking positive reinforcement, I called my dad in New York, who laughed and said, "That's the show where the decibel level exceeds the I.Q. level."

Never having actually seen "The Morton Downey Jr. Show," I decided to investigate. I tuned in that night and had my worst fears confirmed. Downey was hosting a debate between some professional strippers and a state senator from New Jersey who insisted that his 17-year-old daughter still was a virgin. "Oh sure, pal," one of the strippers fired at him. "It's guys like you that come and see girls like me every night."

And there I had my first glimpse of Morton Downey Jr., a chain smoking, gold bracelets dangling, tie almost as loud as his mouth kind of guy, making obscene remarks and insulting any and everyone who dared speak up on his show. The greater the insult hurled, the louder the cheers from the rambunctious audience, made up mostly of large young men.

The greater the insult hurled, the louder the cheers from the rambunctious audience.

Downey brought on a stripper who said she does it for Christ. He called her a "slut," a "pig," a "hooker," and a "tramp." He alleged she had "disease," and banged his pelvis up against hers. Weeks later I learned she sued him for \$40 million. . . . I spent three days in a cold sweat debating whether even to show up. Finally, I rationalized my appearance on the basis that Mighty Mouth's young audience probably can't be reached through any other medium, and the motto that I'll try anything once. Then I picked up a New York tabloid and found that Gerald Rivera was clubbed with a chair during a fracas on his talk show. Gerald had just emerged from three hours of reconstructive surgery on his nose, and I thought to myself, "Yesirree, I must be insane."

The morning of the show Newsweek hits the stands with a cover story on "Trash TV," calling Downey a "power mouth," "vociferous crank" and "Mortification Mort."

Downey holds court in the aromatic marshes of New Jersey, under the shadow of the steely smog-scrapers of the New York City skyline. At the Meadowlands Hilton, where Downey houses his guests, I meet up with Steve Comley, an irrepressible nursing-home administrator-turned-an-



Morton Downey Jr., right, responds to a guest on his show. Above, Al Giordano, the author, appears on Downey's program debating with nuclear

show last summer, taped in New Hampshire. As we make our way across the parking lot here in Essex, N.J., to Downey's studio, we pass a crowd of raucous males lined up around the building. Comley turns to me and whispers, "The animals want to feed."

"And here we are," I retort, "two little piggies wandering into the slaughterhouse." A long black limousine with a decal on the door to wide-open mouth sporting a full set of menacing white teeth—Morton Downey Jr.'s emblem—is perched by the entrance.

We are escorted into the Green Room, where kooky liberals are held before the show. Across the hall, in the Beige Room, is where they keep the conservatives. A procession of interns with clipboard comes in and has me fill out release forms (probably in case I get clubbed with a chair). Then the producer comes in and tells us the rules, beginning with, "There are none."

He urges us emphatically to be rude, to interrupt our opponents, to talk back, to "tone it up. And if you don't tone it up, I'll be furious with you."

"Now," he says, "Mort is mostly against you on this issue, but he's with you on a few things. Good luck." Meanwhile the hungry crowd can be heard shuffling through the lobby, waiting to be let into the coliseum . . . the studio.

My sister Mary arrives with Dad from the Bronx, our only ringers in the crowd. Comley unveils 20-T-shirts that say "Stop Nuclear Waste" or "Stop Chernobyl Here." He gives one to Mary and they dive into the hallway displaying them to the lineup of drooling Morton Downeyheads. "How much are your shirts, lady?" one blunts.

"Free," Mary answers, "but only if you wear them." Pandemonium breaks out. "Ya got any extra-large?" the fans chant in unison. A Con Edison official complains that the T-shirts are against the rules. I crossed her. "There are no rules."

The crowd, now baited with antinuke slogans across their beer bellies, is seated and we are channeled through the metal detectors and into the studio. Comley is seated on stage next to a nuclear-industry spokesman, a real Doctor Strangelove-type. I'm told that I'll be clearing the "Loudmouth Lectern," which has the open-mouth decal plastered on it, with a former under secretary of the U.S. Department of Energy (DOE). What in hell have I gotten myself into?

The music starts. All rise.

Enter Morton Downey Jr. He runs and leaps onto the stage. The animals cheer. My

God, his mouth looks just like the old decal that Downey makes the "rodent teeth" as my cousin. He lights cigarette and places it in front of the on. The crowd is so it's loud, screaming "Mort!"

"Zzzzip it!" he yells, making a V with his hand across his mouth, each eye. They laugh obediently. Mort looks the camera, introduces Comley, then I gelove, whose white hair sticks up as he put his finger in a light socket. "To me not to make," says Mort, "that is the lion. We'll be back after the message."

"Announcements for some guests 'The Morton Downey Jr. Show' are produced by the Meadowlands Hilton," hear station-brooding voice from above.

Mort looks into the camera, introduces Comley, then Strangelove, whose white hair sticks up as he put his finger in a light socket.

When the show resumes, Comley Strangelove fire comes opening photo at other. During the next break the producer comes up behind Comley and says more aggressive. Stand up to those interrupt. After the station break, Comley stands up and interrupts. Downey tell to sit it. The animals cheer.

During the next station break, the center again urges Comley to be more aggressive. Comley obliges. Downey yells it. I'm beginning to get the hang of show.

On the speaker phone Downey calls guy from Ohio who was on the show. Time the week before. He lives in nuclear plant and his son was born formed. The DOE back takes the ladder stand and insists that the boy's pro couldn't possibly have been caused by radiation the authorities found in the or the family's property. Mort is mad them all, even the poor guy on the pi With each barb the crowd cheers for me.

During the next station break the producer tells me to take the ladder away. I the former DOE official. I've dreamed of doing that.



After the break the DOE hack explains how concrete will hold nuclear waste safely. "For 10,000 years!" shouts Morton Jr.

"Concrete was invented 164 years ago," Dooney screams, "and you tell me you're sure it's gonna work for 10,000 years!" The crowds cheer.

I grab the mike from the DOE hack and start railing about how the DOE is planning to shove a nuclear dump down the throat of the state of Nevada. "That's not democracy," I scream at the hack. "That might work in the Soviet Union near Chernobyl, but not here in the United States of America."

My liberal friends will later accuse me of anti-nuclear singeing. But the crowd cheers and shouts down the DOE hack as Mort calls for a station break. Later the DOE hack, undaunted, explains how the rock in Nevada, where they want to bury the nuclear waste, has remained stable for a billion years. "Oh sure," yells Mort. "You were there to see it a billion years ago."

The DOE hack and I now are in a virtual fist fight over the microphone. I spit it away and yell that "The people of Nevada don't want your dump. The governor doesn't want it. The congressmen don't want it, but you want to force it on them," then suggest he practice his trade in Chernobyl. The DOE hack says that I just repeated myself. "Yeah," I say, putting on my best Bronx accent, "That's 'cause ya didn't listen the first time I told ya!" Yes, I'm beginning to get the hang of it.

But then it's time for another break, followed by the audience's turn on the loudmouth podium. Once again the announcer says, with some of the animals now shouting in unison, "Accommodations for some guests on 'The Morton Downey Jr. Show' are provided by the Meadowlands Hilton!"

That was it. The extent of my national television exposure. I figure I used up about five of the 15 minutes of fame Andy Warhol promised. After the show, it's off to dinner at, you guessed it, the Meadowlands Hilton.

Comley, Dad, Sis and I meander into the hotel restaurant and, lo and behold, we are seated at the table next to Doc Strangelove, the DOE hack, and their entourage of media consultants. I come to the realization that guests on both sides of the issue, after being encouraged to insult and attack each other, have been quartered at the same hotel.

Comley goes over to Doc Strangelove, who is nursing a gin and tonic, and says hello. Strangelove, a bit rattled from the show, refuses to shake hands. Comley

comes back to our table and tells the waiter over. "Would you bring my friend in the white hair over there a bottle of wine for me?"

"What kind?" says the waiter.

"The cheapest one you have," says Comley.

The waiter obliges and we conversed while the pro-con debate whether to accept the gift. Strangelove is against, the others for. They compromise, deciding to buy a bottle for us in return. The waiter comes over, informs us of their decision, and recommends the \$12 house white. But Comley says, "let me see the wine list," then orders a \$38 bottle of Mondavi. We never opened the bottle. Now it's a mystery over Comley's fireplace.

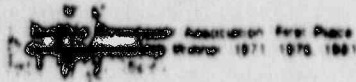
The waiter comes over ... and recommends the \$12 house white. But Comley says, "let me see the wine list," then orders a \$38 bottle of Mondavi.

So maybe I am insane. But, I confess with some liberal guilt, that I enjoyed myself more on Morton Downey's show than any of dozens of dry, sanitized public affairs shows I've appeared on. This is not a defense of Downey. But the thought occurs to me that maybe the reason the American people don't care about issues is not because the issues are boring—but because there are so few forums that catch or hold the attention of the average viewer, particularly the nation's youth. The challenge to liberal America is not to censor or ignore the magnetic pull of someone like Downey, nor to wring our hands helplessly, but to offer alternatives that both inform and entertain.

Besides, sometimes even a liberal has to shout down his opponent, insult him, look him squarely in the eye and yell "Zzzzzzzzzz!" I bet Mike Dukakis wishes he had.

After 12 years as an impatient crusader, political organizer and not-so-diligent disciplinarian, Al Giordano now is a freelance journalist.

YORK COUNTY COAST STAR



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9 000 00 WEDNESDAY, JUNE 21, 1989 A weekly newspaper published by the people of York County FIVE SIXTYSEVEN PAGES FIFTY CENTS

Nuclear power watchdog group brings crusade to where president Bush lives

By Ken Holopp
of the Star Staff

KENNEBUNK — The founder of a nuclear power watchdog group hopes to start an investigation into nuclear regulation practices by going to the people of President George Bush's "hometown."

"We the People" founder Stephen B. Comley of Rowley, Mass., said the non-profit group will soon be circulating petitions calling for an investigation into what he claims is the federal Nuclear Regulatory Commission's role in the use of unsafe parts in nuclear power plants. In an interview this week, Comley said the "fact-finding" group is now renting an office in the former Chickadee gift shop on Route 9 in Kennebunk's Lower Village, which he hopes to open in a couple of weeks.

"We feel that the American people have a right to know the truth and we feel that, obviously, Kennebunkport is another good place to start," said Comley. The group was formed in the fall of 1987 and has more than 5,000 members nationwide, he said. The group has other offices in Rowley and Plymouth, Mass., Concord, N.H., and Washington, D.C.

The nuclear activist said he has been in contact with some people in Kennebunkport, where Bush owns a home on Walker's Point, and is waiting for their support to start the petition campaign. He has reportedly spent many thousands of dollars of his own money in his efforts so far, including a petition drive in his own area.

"If we get over 51 percent of that town, the hometown of Mr. Bush's, certainly the nuclear industry and other people can't say that we're special-interest," he said. "By getting the people within his hometown asking for the congressional investigation of the NRC and their handling of these contaminated materials, it certainly



Staff photograph by Ken Holopp
"We the People" founder Stephen B. Comley of Rowley, Mass., has begun renting an office in the former Chickadee gift shop on Route 9 in Kennebunk's Lower Village, which he hopes to open in a couple of weeks.

should have an impact upon the president's mind."

NRC information officer Frank Ingraham said this week that nuclear power plant parts that fall short of engineering specifications are regularly found, but said the NRC does not sweep the problems under the rug — it alerts the plant operators and government agencies about the parts, although he admitted the bad parts situation is a difficult one to "get your arms around." The NRC oversees the nuclear industry with five commissioners appointed by the U.S. president, and is chaired by Lando W. Zech.

Comley said southern Mainers should be interested in the nuclear power issue since they are within the area that would be affected by an accident at the Seabrook plant in New Hampshire, which recently began low-power testing. As reported by the Star in Starbury, the public investigation path was opened when the Seabrook plant was found to have a problem with a valve that was not working properly.

extends up the Maine coast to Old Orchard Beach. Southern Maine roads are part of the evacuation plan for New Castle and parts of Portsmouth and Hampton in New Hampshire.

Low-power testing, up to 3 percent of full power, should be completed by the end of this week, said a spokesman for the operators, New Hampshire Yankee, this week. Rob Williams said the start of testing at Seabrook was postponed a week after three valves manufactured by Manufacturers of Rhode Island didn't open at the right speed, and were subsequently modified to work properly. He said they have worked correctly since the testing began June 13.

Yankee hopes to get permission to start full-power testing at Seabrook by fall, said Williams.

Problems and regulatory delays at Seabrook have reportedly driven the plant's cost from about \$1 billion to \$1.5 billion and prevented the plant from generating revenue for a significant period of time.

Clamshell Alliance group has demonstrated several times in past years, and more than 700 people were arrested in a non-violent demonstration in early June.

We the People group leader Comley said he got involved in the nuclear power issue about five years ago, when he discovered that many of the residents of the Seaside View Nursing Home he operates in Rowley would not be evacuated in the case of an accident at Seabrook. Since he began, he claims to have spent more than 42 weeks in the nation's capital talking to officials about the dangers of nuclear power.

Comley said he hopes to open the Lower Village office in a couple of weeks, but his plans are on hold while he responds to subpoenas from the NRC in U.S. District Court in Boston on Thursday. The NRC is demanding Comley turn over tape recordings he may have made of phone conversations with Roger A. Perron, former deputy director of the Office of Investigations. The Office of Investigations is a part of the NRC responsible for looking into violations of NRC rules by utility companies.

Comley's lawyer Ernest Nadick of Wareham, Mass., said he will argue that the NRC does not have the authority to subpoena Comley, is infringing on his client's right of free speech, and is harassing private citizen because of his outspoken criticism of the NRC.

The building that We the People is renting on Route 9 is owned by the Cullen Realty Trust, which is operated by Stephen Cullen Nadick, Mass., and other Cullen family members, said Richard West West, who is the Kennebunk real estate agent handling the property, said neither his company nor the trust are involved in the nuclear power issue. He said Comley has a six-month lease on the property, which is for sale.

Weekend

The newspaper of York County, Maine

SEPTEMBER 2, 1969



Stephen B. Conley, right, executive director of The People, talks with Maine State troopers before being turned away at the checkpoint on Ocean Avenue near President Bush's Waters Point summer home. The banner was later confiscated at a protest site near Posee Air Force Base. PHOTO BY ANNE BOQUARTY

■ PROTEST

From Page 1

Cornley, who runs a nursing home near the facility, said evacuation plans for nursing home residents are not sufficient in the event of nuclear disasters.

The group was in Newington, N.H., later in the day to meet President Bush at Pease Air Force Base.

Cornley said two men holding the banner were taken into the base's office and the banner confiscated, although, he said, they were not on

the road and not on Air Force property.

He said he was told by a Pease representative that if he tried to talk to the men who were apprehended, he would be taken away, too.

State police who arrived at the scene said no charges would be filed because the protestors were not on the base's property, but base officials said they would not release the banner until later.

"There was no charge whatsoever but they said they were going to keep the banner," Cornley

said.

"This is America and I think we have a right to give our views and do it peacefully and that's what we were doing," he added.

Cornley said Bush's presence and We the People planners ready for other events involving the professionally-made banner, which cost over \$2,000, but he wasn't sure he would get it back in time. "That certainly has put a crimp in our plans for this weekend," he said. "I don't really think the president would go along with this."

Portsmouth Herald

Nuclear foe fined \$155,000 for defying tape subpoena

BOSTON (AP) — Stephen Comley, an anti-nuclear activist, has been fined \$155,000 in fines for refusing to surrender tapes he allegedly made of a conversation with a federal regulatory official.

U.S. District Judge Robert Keeton said Comley was not above the law, and ordered the fines, set because he has refused to comply with a Nuclear Regulatory Commission subpoena for the tapes.

The NRC had demanded he turn over 40 to 50 tapes of phone conversations between Comley and Roger Fortuna, an NRC investigator, which Comley is said to have recorded secretly.

The tapes are needed to determine if a senior employee improperly disclosed confidential information to Comley, the NRC said.

Comley is a long-time foe of the Seabrook, N.H., nuclear plant and founder of the anti-nuclear group, "We the People."

He is being fined \$1,000 a day for failure to comply with a six-month-old contempt of court order. A federal appeals court has rejected Comley's argument that the subpoena was improper.

Tuesday, Comley said he has no plans to return the tapes, the existence of which he never has confirmed. The subpoena is a part of a "witch hunt" designed to harass him and "get" Fortuna, he said.

Through Tuesday, the fines amounted to \$172,500. Comley previously had been ordered to pay \$17,500 in fines. The Daily News of Newburyport reported.

The Nuclear MONITOR

A Publication of the Nuclear Information & Resource Service

Vol. 5, No. 11

February 12, 1990

STELLO NOMINATION ON HOLD AS IG SAYS HE IS STILL INVESTIGATING

The controversial nomination of Victor Stello, Jr. to be Assistant Secretary of Energy for Defense Programs has been placed on indefinite hold. According to a January 31 statement by Senate Armed Services Committee Chairman Sam Nunn (D-Ga.) and ranking minority member John Warner (R-Va.), the committee learned in late January that Stello, former executive director of the NRC, is still under investigation by the NRC's inspector general. The statement said no further action would be taken on the nomination until that investigation is complete.

According to a January 30 letter from David Williams, the NRC's inspector general, a three-tiered investigation is still underway into the Roger Fortuna matter. Fortuna was formerly deputy director of the NRC's Office of Investigations. Stello had approved creation of a \$10,000 "slush fund" to make cash payments to a controversial whistleblower from Nine Mile Point. Although Stello has claimed he only sought safety information about the plant, others have charged that the real information Stello was interested in was the whistleblower's allegations that Fortuna had had improper contact with anti-nuclear activist Steve Comley. Other investigations have essentially cleared Fortuna of wrongdoing. Stello had long been at war with the Office of Investigations, and had at various times attempted to curtail its authority.

In his letter, Williams wrote that his investigation is focusing on "Mr. Fortuna's dealings with Mr. Stephen Comley; the NRC's conduct of the Fortuna investigation, and, statements made by NRC employees to Congress and to the federal court about the conduct of the investigation."

The letter specifically added, "One issue which will be addressed during our current efforts concerns Mr. Victor Stello's involvement in the Fortuna matter and statements made by him to Congress concerning that involvement." One likely area for the IG's investigation is Stello's testimony before a House subcommittee headed by Rep. Peter Kostmayer (D-Penn.), which examined the Fortuna matter. Kostmayer has said he believes Stello's testimony was less than forthcoming.

Williams said that "the investigative field work" on Stello "should be completed within the next several months."

Energy Secretary James Watkins reiterated his confidence in Stello, saying, "no facts have brought to my attention at this time which are not already part of the record before" the Armed Services Committee. He added that Stello would continue serving in the department's number two defense programs spot, which does not require Senate confirmation. Stello, however, currently is recovering from a recent skiing accident.

Watkins said he expects that consideration of the nomination could be renewed in April--a perhaps optimistic view of when the IG's investigation will be completed. Some observers believe, however, that Stello's nomination has now dragged on so long and become so tainted that it is only a matter of time before it is formally withdrawn.

STATEMENT OF
SENATOR SAM NUNN (D-GEORGIA) AND SENATOR JOHN WARNER (R-VIRGINIA)
ON THE NOMINATION OF VICTOR STELLO, JR. TO BE THE
ASSISTANT SECRETARY OF ENERGY FOR DEFENSE PROGRAMS

JANUARY 31, 1990

Senator Sam Nunn (D-Georgia) and Senator John Warner (R-Virginia) made the following statement on the nomination of Victor Stello, Jr. to be the Assistant Secretary of Energy for Defense Programs:

"The Committee learned last week that the Inspector General of the Nuclear Regulatory Commission has determined it is necessary to continue an investigation into the NRC's handling of certain matters which involve activities of Victor Stello, Jr., the nominee to be Assistant Secretary of Energy for Defense Programs. After discussing this matter during the Committee meeting on January 25, we were briefed by the NRC Inspector General on January 26, 1990. A copy of a letter we requested from the NRC Inspector General, David Williams, on the scope of the investigation is attached.

"The Committee discussed this matter and decided to take no action at this time on the Stello nomination pending receipt of further information from the Inspector General. We discussed this matter with the Secretary of Energy, Admiral James D. Watkins, and have attached a copy of his letter on this matter."



NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20545

January 30, 1990

OFFICE OF THE
INSPECTOR GENERAL

The Honorable Sam Nunn
Chairman, Committee on
Armed Services
United States Senate

Dear Mr. Chairman:

This will confirm our discussion on January 26, 1990, regarding the ongoing Office of the Inspector General investigation into the Roger Fortuna matter. The investigation contains three tiers of inquiry: Mr. Fortuna's dealings with Mr. Stephen Conley; the NRC's conduct of the Fortuna investigation, and, statements made by NRC employees to Congress and to the federal court about the conduct of the investigation.

Thus far, our investigation has identified the issues to be examined and resolved, beginning with Mr. Ellison's complaint in August 1988 and continuing through recent Congressional testimony. Earlier NRC efforts to investigate the matter will be useful in resolving these issues. Those efforts include Judge Alan Rosenthal's investigation, former Inspector General J. Brian Hyland's analysis of Mr. Fortuna's professional conduct and Acting NRC Inspector General Martin Malsch's analysis of evidence gathered to date. Additionally, Judge Christine Kohl's decision on Mr. Fortuna's grievance will also be useful.

In addition to these investigative efforts, additional field work is required to resolve all of the issues in this investigation. That work is underway.

One issue which will be addressed during our current efforts concerns Mr. Victor Stello's involvement in the Fortuna matter and statements made by him to Congress concerning that involvement. The investigative field work on that aspect should be completed within the next several months.

As requested, the Committee will be notified when the field investigation concerning Mr. Stello's activities is complete.

Sincerely,

David C. Williams
David C. Williams
Inspector General

9004040278
ZAF



Washington, DC 20545

January 30, 1990

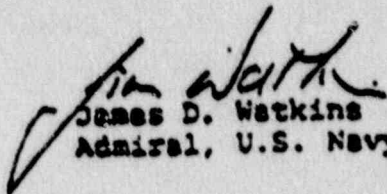
The Honorable Sam Nunn
Chairman
Committee on Armed Services
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

I understand that the new Inspector General at the Nuclear Regulatory Commission (NRC) is continuing an ongoing investigation into allegations that have been made regarding certain events concerning Victor Stelle. No facts have been brought to my attention at this time which are not already part of the record before your Committee.

I have been informed that the NRC's Inspector General will have concluded his field work on this subject by the end of March, barring unforeseen circumstances. As a result, I have no objection to withholding final consideration of the nomination of Mr. Stelle to be Assistant Secretary of Energy until April or earlier as I and the Committee review any new information that may be forthcoming. In the interim, I want you to know that Victor Stelle has my full confidence as he continues to function in his role as Principal Deputy Assistant for Defense Programs.

Sincerely,


James D. Watkins
Admiral, U.S. Navy (Retired)

THE DAILY NEWS

Newburyport, Massachusetts

Wednesday, January 31, 1989 / 64 Pages

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Comley ordered to pay \$155,000 in fines

By THOMAS DUFFY
Ottaway News Service

BOSTON - Anti-nuclear activist Stephen B. Comley was ordered Thursday to pay \$155,000 in fines in his continuing dispute with the Nuclear Regulatory Commission.

U.S. District Judge Robert E. Keeton ordered Comley, a Rowley resident, to pay the fine for failure to comply with a six-month-old contempt of court order.

In spite of the hefty fine, Comley appeared no closer to turning over tape recordings he supposedly made of telephone conversations with a senior NRC official.

"I don't have any intention of turning over the tapes," Comley said after the hearing, adding quickly that he never has acknowledged that they exist.

The case stems from an NRC subpoena to Comley ordering him to turn over

40 to 50 tape recordings it contends he secretly made of telephone conversations with an NRC investigator. The agency said the tape recordings are needed to determine if a senior employee improperly disclosed confidential information to Comley.

Comley was found in contempt of court on July 27 by Keeton for refusing the judge's order that he comply with the subpoena. Keeton, telling Comley he was not above the law, fined him to force compliance.

Comley is being fined \$1,000 a day for continuing to resist the contempt of court order. Through Tuesday, the fines amounted to \$172,500. Comley previously had been ordered to pay \$17,500 in fines.

To date, Comley has paid just \$2,500. He says he has no assets and gave no indication that he intends to pay any more.

Comley declined to discuss specifics of the question of his assets.

He said he has "no shares whatsoever" in a long-time, family-held business, Sea View Convalescent and Nursing Home on Mansion Drive, and declined to say who does.

"I'd rather have (federal officials) force that issue," Comley said.

A federal appeals court has rejected Comley's argument that the subpoena was improper.

Comley was not allowed to speak in court Tuesday. But following the hearing, he repeated his longstanding contention that the real issue is the NRC.

"The issue is not fines," he said. "It's corruption within the NRC."

Comley repeatedly has said the subpoena is part of an NRC effort to silence its critics and send a message to employees that they should not talk outside the agency.

Comley said the agency's investigation is a "witch hunt" designed to harass him and "get" the employee, Roger A. Porteus.



BRIAN GONVE PHOTO

Stephen Comley



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Rowley anti-nuclear activist fined \$155,000 for contempt

BOSTON — A U.S. District Court judge Tuesday ordered a Rowley anti-nuclear activist to pay a \$155,000 fine for being in contempt of a previous court order.

In levying the penalty, federal Judge Robert E. Keeton found Stephen B. Comley in civil contempt of his earlier order to comply with a Nuclear Regulation Commission subpoena requiring him to turn over tapes the NRC says he possesses. The tapes are of telephone conversations between Comley and Roger Fortuna, an NRC official who is the subject of an agency probe.

Comley has refused to turn over

the tapes, or even to confirm he has them, citing the need to protect government whistle-blowers. Comley has been a longtime critic of the NRC, charging the agency with covering up safety violations at nuclear plants.

Assistant U.S. Attorney Paul Levenson argued the court to invoke a partial judgment since Comley "has made no attempt to pay fines imposed by the court." Judge Keeton found that Comley has not complied with his earlier order and warned of serious consequences.

Judge Keeton noted the fine will continue at the rate of \$1,000 per day.



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